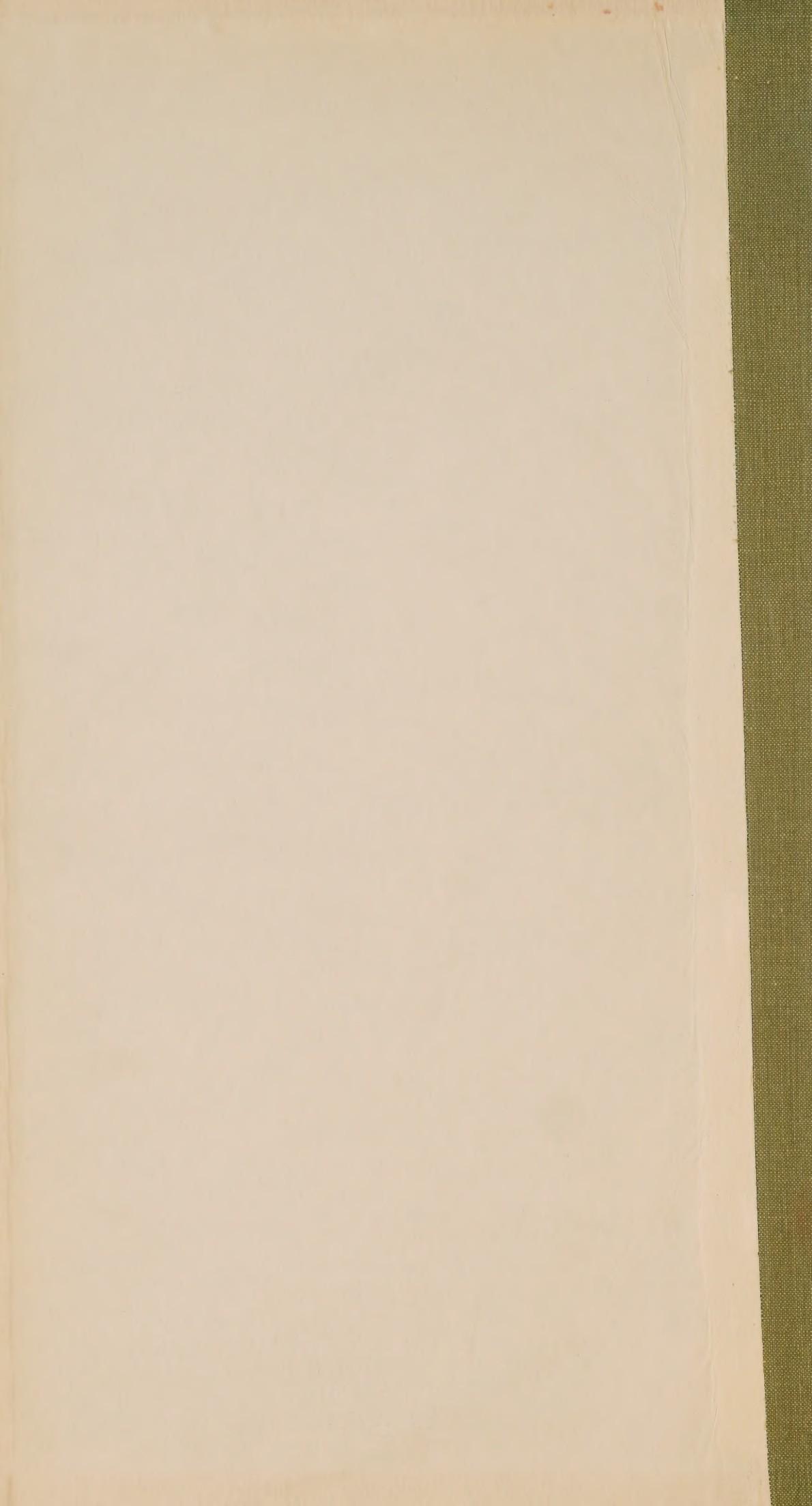


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Canada-Dominion-Provincial Relations, Royal
Commission on, 1937

(ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS)

REPORT OF HEARINGS

in Canada I

Vol. 5, Pt. 1-3

JAN 27 1938 - Jan. 31. 1938

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OTTAWA, ONTARIO, JANUARY 27, 1938

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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

OTTAWA, ONTARIO, JANUARY 27, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Parliament Buildings, Ottawa, Ontario, on Thursday, January 27, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL....CHAIRMAN	
DR. JOSEPH SIROIS)
JOHN W. DAFOE, Esq.)
DR. ROBERT ALEXANDER MACKAY)
PROFESSOR HENRY FORBES ARQUES)

Commissioners

Commission Counsel:

Louis S. St. Laurent, Esq. K.C.

James McGregor Stewart, Esq. K.C.

Secretariat:

Alex. Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.	Assistant to the Secretary

FOR THE DOMINION GOVERNMENT:

C. Fraser Elliott, K.C.	Income Tax Commissioner
Alex Gray, Esq.	Income Tax Branch
R. G. Gilham, Esq.	Income Tax Branch
David Sim	Commissioner of Excise

Railway Committee Room,
House of Commons,
Parliament Buildings,
Ottawa, Ontario,
January 27, 1938.

MORNING SESSION

The Commission met at 10.30 a.m.

MR. STEWART: Shall I proceed my Lord?

THE CHAIRMAN: Yes, if you will proceed, Mr. Stewart.

MR. C. FRASER ELLIOTT, K.C., Commissioner of
Income Tax, Examination continued.

BY MR. STEWART:

Q. I think you have a statement of the combined business profits and income tax, Mr. Elliott? A. Yes; the combined statement of business profits collections and income tax collections since the inception of the law, which for business profits, was applicable to 1916-15 and for income applicable to 1917 and each year thereafter, except business profits ceased as a taxing measure in 1920. So as Exhibit -- I do not know the number, Mr. Stewart.

Q. That will be 126. A. As Exhibit 126 I will submit the total collections since the inception of those laws referred to. And yesterday I made the statement from memory that we had collected over \$1,250,000,000. Now, I would like to give the court the exact figure which is \$1,319,011,100.13.

EXHIBIT NO. 126: Statement of business profits and income tax collections since inception of laws.

Q. You have also a statement of the collections for all years by provinces and separated as to individuals and corporations? A. Yes. That statement of collections for all years segregated as to provinces since the inception of the law is in the back of the blue book that

I think was originally put in as Exhibit 124. It can be separated of course, but I presume you will just note that as an attachment to Exhibit 124.

Q. Yes. What chart is it in 124? A. Well, in 124, that is a book of statements.

Q. Yes, I know. Exhibit 124. But the particular statement to which we are referring now is what statement or what page? A. It is the last statement. It is not numbered, but it is the last statement.

Q. Now, Mr. Elliott, at the present time there is an arrangement between the Dominion and the province of Ontario in the collection of income tax, whereby your department collects income tax for the province of Ontario?

A. That is correct.

Q. Under the terms of its Act. Can you make a statement as to how that has operated? A. I would be very glad to do so. In the 1935 Interprovincial Conference the subject was brought up as to the possibility of the Dominion administering the laws of the various provinces. The representatives of the province of Ontario asked if we would do it and we agreed to do it. An agreement was drawn up between us and that is in detail or in law the basis by which we function. In discussing the matter, it was pointed out that we could use one form for the individual to declare his income upon. I have that form here and I think it exemplifies to the eye the savings that can be made both to the taxpayer, the two jurisdictions concerned, Ontario and the Dominion, and thereby decrease the costs and increase the revenues.

The needs of the Ontario law were incorporated into the return of the Dominion form and it only took a very small portion of our form to incorporate all their laws because already existing on our form was substantially

everything that they required. If I may, I will give the six forms to the commission and point out just how much space on the Income Tax Form is required to satisfy the requirements of another province.

Q. We will mark this Exhibit 127, which will be the T1 Form in use for Dominion-Ontario returns. A. Yes.

EXHIBIT NO. 127: T1 Form in use for
Dominion-Ontario
Income Tax Returns.

MR. ELLIOTT: The principle was laid down to the Conference at that time which was generally accepted as being necessary if the Dominion is to administer the laws of any other province. That principle was this: That you must have the income described or defined in the respective laws substantially the same as they are in the Dominion. That meant that when we determined the Dominion income ipso facto we had determined the provincial income. It was emphasized that those provinces must not have a determination of income by statutory definition different from what we had, otherwise we would be interpreting one to nine different laws dealing substantially with the same thing. Therefore, I repeat the one principle was: "Bring your income tax definitions into conformity with ours." Ontario's definition was substantially the same as ours at the time, although they undertook to amend their law and did amend their law, bringing a number of the details of their definition into conformity with ours. Now, for the first time, Premier Bracken made the comment, "Will you let us have our exemptions different?" That is, the Dominion is \$2,000 and \$1,000. "Will you let Ontario or Manitoba" -- he was discussing really with Manitoba in mind --- "Will you let them have different exemptions?" Their exemption is not \$2,000 or \$1,000. And it was shown that they could have different exemptions,

that was only a matter of calculation. After you determined the income you deduct from it either \$2,000 or \$1,500, it was a detail.

Then, the next question that came up was, would different rates be any deterrent? Certainly not. The point was, would you use the same Dominion rate and then apportion the final tax, or could you use different rates on the taxable income, after these deductions had been made. Well, that again is only a detail. We said: "Put in what exemptions you like, what rates you like."

Special exemptions, that was the next step. We will let you have special exemptions, but once we have determined the common income you can reduce it by such special items as you wish. And they said, "All right, we would like to reduce it by our non-taxable Manitoba Bonds." That is all right, take it off. Or, if you have any special exemptions for pensions or the like. As long as it comes from a common figure, common to the two jurisdictions, then it is only for the auditors going over the work to make small deductions and after they have got down to the taxable income, to apply whatever rates they had and to figure that income tax out on the same figure and send them out at once and they are both paid on the same basis. Thereby the two are brought into harmony, both in determination of income and method of assessment, plus all taken in on one form.

COMMISSIONER ANGUS: Would the existence of a 1 per cent income tax payable at the source complicate it?

MR. ELLIOTT: I was going to come to that later. I will deal with it now. That is exactly what is going on in Manitoba. First, I should inform the court, we are this year taking over Manitoba. We have already taken

in in the first few days, subject to correction, about thirty or forty thousand dollars; meaning that the system is on its way. But, as we worked the problem out, to answer your question, they have a wage tax; the wage tax is collected at the source. It is a two per cent wage tax and if you come over a certain exemption, or certain wage, over \$600, the 2 per cent applies and has to be deducted by the employer. He deducts it not with respect to the money over \$600, but because his salary is over \$600 the 2 per cent applies to the whole \$600. In other words, if he went \$1.00 over he pays on \$601, he does not pay on the \$1.00. That was important to us for this reason that when we made up our form we had to provide a system of knowing whether he had already paid his wage tax at the source, because if he were coming under the general income tax law we would have to give him credit for what had already been deducted at the source and we are doing that.

So that the answer to your question is, without going into it in more detailed form, sir, it is very awkward, slows up the management and makes extra work, but it could be done.

COMMISSIONER ANGUS: Even if it involves refunds?

MR. ELLIOTT: Yes, because the pot into which the money goes, as long as we know it is there, when we know the man is entitled to the refund we can, with the proper mechanics, take it out of the same pot. So I am sure there will be a great number of refunds.

THE CHAIRMAN: In connection with the wage tax, or this 2 per cent deducted at the source, you have not taken over that portion?

MR. ELLIOTT: No, we have not.

THE CHAIRMAN: Does that not involve still the

maintenance of an income tax branch in Manitoba?

MR. ELLIOTT: I would not call it an income tax branch, because this is a deduction at the source and paid into the Manitoba Exchequer. The result of that is that no bills are sent out, no system is built up for assessing the person; there are no assessors; the mechanics of the thing are substantially wiped out except to the extent of receiving and accounting but not in the sense of assessing, and getting of the information. Do I make that clear? Therefore, we have to have interchange this year with the province to say: "Did you get anything at the source respecting John Jones? If so, we want to give him credit for what he has paid before we send out our bill." That is an awkward feature of taking over Manitoba and if it could be eradicated as a wage tax and brought in in some other way it would be, from our point of view I do not speak for Manitoba, from our point of view ---- better management, clearer cut and less expensive.

THE CHAIRMAN: The administration would be easier?

MR. ELLIOTT: Correct. Now, the forms that have been delivered to you, you will observe on the front page there is item No. 17Q. First, probably, if you go to another form, TL 1936 Dominion. That is the top form.

THE CHAIRMAN: Yes.

MR. ELLIOTT: Down at the bottom of that you see a vacant space.

THE CHAIRMAN: Yes.

MR. ELLIOTT: That space is left vacant because when we come to print the Manitoba Forms we are going to fill it in. But that is the dominion. When anybody in any part of Canada gets this form this year he will get it with that vacant space in it, providing he does not live in Manitoba or in Ontario. If he lives in Ontario he

gets the next form, T1 1937. And if you look up at the top right hand corner you will see Dominion and Ontario combined underneath the letters T1 1937. Now, you have just filled in that space, and everybody that resides in Ontario not only completes the top form by completing the second form but in completing this latter form that is filled in he has also satisfied the provincial law requirements and that is all the extra inconvenience to him.

Then, at the bottom, in item 18 you will see there is the combined payment. We ask people to allocate their payments. We would like them to say, so much for the Dominion, so much for Ontario. If they just hand us so much money we apply it on Dominion account first, because we are the administrators and the law of receiving payments is that you can apply it on any debt you like if you are not directed. So we apply it first in the direction of the dominant authority, I suppose that is the right way to put it.

THE CHAIRMAN: In your experience did you find the taxpayers, in making out what to pay themselves, found it difficult on this combined form?

MR. ELLIOTT: On the contrary, this had been going for some time when the statement was made by one of the Ontario officials, Mr. Walters, the Comptroller of Finance, that while nothing could be perfect this has functioned with almost perfection. That was made in the presence of other officials who seemed to concur in that view. And in my close touch with the matter, I think that it has worked as close to perfection as possible and certainly I will say as a fact that there has not been a single complaint from any source whatsoever on the combined administration, and as another fact, there has been innumerable statements of satisfaction.

THE CHAIRMAN: Do all the provinces that impose an income tax make a deduction from the income of the amount paid the Dominion?

MR. ELLIOTT: As I understand, subject to correction, but I think it is correct, the province of Ontario allows the Dominion tax as a deduction from the individual's income, and to the remainder the taxes are applied less the Ontario statutory exemption. That is the same in Manitoba. That is the same in Prince Edward Island. I do not think it is so in British Columbia and I do not think it is so in Saskatchewan or Alberta.

THE CHAIRMAN: Thank you.

MR. STEWART: What is the effect in cost of collection of these reciprocal or cooperative arrangements with the provinces?

MR. ELLIOTT: It would be a slight added cost, that is the first point. There would be a slight added cost by taking over. Of course, when I said yesterday we got \$100,000 from the province of Ontario for administering their act and that we collected \$5,000,000, that meant that the cost to the province was 2 per cent, two cents to collect a dollar. Now, that is really too much money. It didn't cost us anything like that but we were just making an agreement and we were saving money to the province of Ontario handsomely, and we did not want to lose money ourselves, so we raised the price high enough to save money to them and have no loss to us, a good bargain on both sides, but \$100,000 is still too high. So we reduced it so they are going to pay an average of \$80,000 a year from now on, because we see even that is a little high. But you must take into consideration this: that these men who we are now employing have a little more work; they are doing two jobs where they used to do

one on the other return I put before you. He does his little extra work here on that additional return and we feel something should be paid for that, although it does not cost us any more. And then there is the fact we are using our buildings and the space, that we free them and their space and their employees and we use our space and our employees. And so, while I say quite frankly, -- and this was discussed equally frankly with them; I am not telling anything they do not know -- that we are going to get \$80,000 and they will make a great saving, but that certainly will cost us nothing, because the \$80,000 covers the additional cost of everything and a little more.

MR. STEWART: Have you any figures as to the saving which results to the provinces?

MR. ELLIOTT: I could not speak as to that. I would not like to say, because first of all I would have to know what it cost them to collect \$1.00 and I have not the data to do it. No, I would be guessing if I were to answer that question.

MR. STEWART: Have you any statistical material showing the burden of the dual income taxes, that is the Dominion and the Ontario taxation?

MR. ELLIOTT: Yes, I have. I realize that that is a very pertinent question and I think we might develop it by a series of steps, accompanied by charts. The first step would be to show the relation of the Ontario tax to the Dominion tax separately with a chart. And then to show the relation of the taxes of each province on one chart.

MR. STEWART: That is, the income taxation?

MR. ELLIOTT: Yes, always in that field. And then to show the relation of the dominion tax compared with the

United States, the United Kingdom and with the Dominion and say British Columbia taxes combined. This graph, or chart, will show the weights one above the other as you progress, go higher. And if it pleases the Commission we will start with the comparative chart of the Ontario and Dominion income tax.

MR. STEWART: That will be marked Exhibit 128.

EXHIBIT NO. 128: Chart showing comparison between Ontario and Dominion Income Tax.

MR. ELLIOTT: There are four sheets to that Exhibit. The Dominion-Ontario income tax is a chart drawn up in relation to a married person with no dependants. That would be \$2,000 exemption only. The ordinance on the left is the percentage that the tax payable is of the net income. It should be appreciated that that is not a rate of tax that is nominated, but no matter how your graduated rates go up on your income you pay so many dollars. Whatever those dollars are to your total income, that is the percentage, and that is the percentage referred to on the ordinance on the left. Along the bottom are the increasing incomes, \$1,000, \$2,000, \$3,000 and \$4,000 until you come up to the \$20,000. If I were to go up \$1,000 at a time until I came to the \$100,000 man I would have to have a sheet away off to the right. Therefore, I jumped up the incomes from \$20,000 to \$25,000; it runs in \$5,000 groups up to \$100,000 and then I jumped them up by groups of \$10,000 at a time up to \$250,000, and then \$25,000 at a time up to \$400,000, and \$50,000 at a time up to \$500,000 of an income. That explains why the graph is not a smooth running graph. There are really no sudden uptrends in this developing income tax; it is just because the income is compressed and there-

for the curve shoots up higher.

If you take the \$20,000 man you will observe under the Ontario law he pays \$786.00. Under the Dominion he pays \$2,593. Now, if you go to the table that is shown also on the sheet the \$20,000 is added together and makes a payment of \$3,380.

Now, Mr. Stewart, to answer your question, what is the added burden? For the Dominion he pays 12.97 per cent on his income if he has an income of \$20,000. For the province he pays substantially 4 per cent -- 3.93 per cent. So the combined burden is 16.9 per cent. In other words, the added burden there is 4 per cent.

Then, if you go down the scale to the higher incomes the added burden is not increasing, the added burden is decreasing; and as you come up these figures to the top of them, which are the lower incomes, \$3,000, \$4,000, the added burden is increasing. That is occasioned by one factor only, that is, because they allow the Dominion tax as a reduction from the income of the taxpayer before taxing it. If you look again at the curved line and go away off to the right of the chart above the \$400,000 income up to the \$500,000 you actually see the curve takes a downward dip. That is because under the dominion law a \$400,000 income man pays over 50 per cent of its income in \$500,000 tax, he pays 55.78 per cent. And if you take 55 per cent of his income off before another jurisdiction taxes it, you see then the curve starts to go down. Of course, on the other hand if they did not allow it, the burden would just be so heavy that I do not think it could be borne without disaster.

MR. STEWART: The next chart shows the comparison of the income tax rates in all the provinces?

MR. ELLIOTT: Yes.

MR. STEWART: That will be marked Exhibit 129.

MR. ELLIOTT: You are putting in each one separately, are you?

MR. STEWART: Yes. I think, as they are not bound together, it would be better.

MR. ELLIOTT: That will be all right.

EXHIBIT NO. 129: Chart showing comparison of income tax rates in all provinces.

MR. ELLIOTT: This is chart. The ordinances are explained in the same way except when you come to the \$20,000. I thought perhaps people would be interested to know how the curve really did look if you still continue on at \$1,000 intervals, although at \$20,000. If you will just go above the line you will see \$21,000, \$22,000, \$23,000, \$24,000, and I run it up by \$1000 intervals up to \$50,000. The dotted lines all end at \$50,000 and they show that the curve would be perfectly smooth. So these dotted lines are only to show that the graduation is a smooth curve, that there is no sudden break or increased burden. However, to get the graph within the compass of the paper I again bring it within the compressed incomes.

THE CHAIRMAN: I am not sure that I followed that last observation. Were you speaking of the graph on the corner of the sheet?

MR. ELLIOTT: Oh, no. You mean away up in the left hand corner?

THE CHAIRMAN: Yes.

MR. ELLIOTT: No. I will explain that later. Just let us leave that for the moment.

THE CHAIRMAN: Yes.

MR. ELLIOTT: If you go down to the income at the

bottom you see it goes \$1,000, \$2,000, \$3,000, \$4,000, up to \$20,000.

THE CHAIRMAN: Yes.

MR. ELLIOTT: If you go half an inch above you will see \$21,000, \$22,000, \$23,000, \$24,000, and it goes on by \$1,000 intervals up to \$50,000. I am indicating that from \$1,000 to \$50,000 income is depicted by \$1,000 increase of income. So that, when you look above \$21,000 or take \$23,000, you see, as you lift your eye on the chart, it runs into dotted lines.

THE CHAIRMAN: Yes.

MR. ELLIOTT: I ask you to ignore the heavy lines. I mean the light lines.

THE CHAIRMAN: Yes.

MR. ELLIOTT: Now, these light lines, if you follow your eye along there, down to the lower left hand corner on the chart into the heavy lines, they run smoothly right across. Meaning that it is a graph that is showing \$1,000 intervals of income and the percentage of income tax paid. I want to get away from the idea of this sudden jump, that there is not a smooth running graph. There is. Now, the heavy lines are to get within the compass of this paper an income of \$500,000, because if I did not do that by taking \$5,000 income at once and then \$10,000 between each line, and then \$25,000 and \$50,000, I would never get the whole \$500,000 on the sheet. It would be so long you would have to walk down to look at the other end.

If you will look at the heavy lines you will observe up to about \$20,000 all provincial income taxes are more or less the same with the exception of Prince Edward Island. Prince Edward Island is the bottom heavy line. Now, Prince Edward Island, allows the Dominion tax as a

deduction from the taxpayer's income before the provincial tax is applied. So you see, that curve, as I explained in the Ontario chart, goes downward also. Alberta after \$20,000 becomes the heaviest of them all. Saskatchewan is next and British Columbia and then Manitoba, and least burdensome of all Prince Edward Island. But, in order to show the combined effect as Counsel asked me a little while ago, put British Columbia and the Dominion together and you see what a burden it appears as compared with the other graphs. The Dominion tax at \$20,000 is \$2,593. But add the British Columbia tax, which does not allow the Dominion tax^{as a deletion} on top of that, and you follow up the \$20,000 line on the chart before you and it is \$4,958. It is not for me to criticize, but if I had the money I would say it is quite a tax, and that is not an opinion, that is more a statement of fact. So, again, Mr. Counsel, that answers your question as to what is the combined-burden.

COMMISSIONER ANGUS: Does this not, perhaps, slightly exaggerate the burden in the case of British Columbia with respect to people whose income is derived from investments in corporations within the province? Does not British Columbia give an exemption in the case of dividends from provincial corporations which might be very material?

MR. ELLIOTT: I would not answer with certainty, but I do not think so. You would know that better being from the province and I hope, having investment income, you would know better than I.

COMMISSIONER ANGUS: I think that is the case, that the corporation's income is taxed, but that the dividends that the corporation pays are not taxed as part of the income of the individual who receives them.

But they are put in for reckoning surtax or supertax.

MR. ELLIOTT: No, I am just stating the rates here.

What you are really suggesting is that the dividends from a corporation, are not valued or graduated in the provincial income tax rates. But, are they wholly exempt? I doubt if they are wholly exempt. But if they are, I can only say that this is on the basis of their rates.

COMMISSIONER ANGUS: The dividend is wholly exempt in the case of a corporation ---

MR. ELLIOTT: Wholly within the province?

COMMISSIONER ANGUS: Which is paying provincial tax on its dividends.

MR. ELLIOTT: Well, I said I would be surprised if it were wholly exempt, for one reason, that the corporation is subject to a flat rate. And, if every wealthy man has everything invested in corporations, it means that he gets his income from corporations, if you are correct, free of taxes.

COMMISSIONER ANGUS: I think you are quite right. If the rate of income tax exceeds the corporation rate, then it is taxed.

MR. ELLIOTT: Well, I am speaking about the \$20,000 man, and it would exceed the corporation rate of tax.

COMMISSIONER ANGUS: The point is that the only exemption given is what is actually being paid by the corporation. If it is paid at 7 or 10 per cent then any individual is, so to speak, credited with that payment up to his income.

MR. ELLIOTT: Well, here is the surtax provision of the British Columbia Act: "The exemptions are the same as those allowed for the purpose of the normal tax except that interest and dividends from certain corporations and more particularly referred to below,

while not subject to normal tax is subject to surtax." That is what I said. I would be surprised if that were not so. In other words, after a normal tax exemption is given to a recipient of dividends they say, "Well, now from now on you are going to pay a surtax." I would have been surprised if the dividend had been wholly exempt. That would not have been good legislation, and I find it is not so.

Now, Mr. Chairman, you asked about the upper left hand corner of this chart. It is only a depiction on a larger scale of what is down at the lower left hand corner, because the scale down at the lower left hand corner is so small that the graphs all run into one another. Therefore I have opened it up a little bit at the upper left hand corner to show what happens on the very low incomes, \$1000, and \$2,000, and that amount at the lower end of the series of graphs that come together is brought out in larger form.

THE CHAIRMAN: Thank you.

MR. ELLIOTT: Mr. Gray, on my right, is still not letting go your question, Professor Angus, and he said: "I think it should be pointed out" I will not read it, I will tell you what it is: What the corporation pays, if it were 10 per cent, that is the maximum of the exemption that the individual can get?

COMMISSIONER ANGUS: Yes.

MR. ELLIOTT: In other words, the money that was earned by the company, here is a company taxed at 10 per cent and if the individual gets so much from it that it puts him in the higher brackets, he has got to pay that excess himself.

COMMISSIONER ANGUS: Yes.

MR. ELLIOTT: A very fair tax.

MR. STEWART: Your next chart, Mr. Elliott, shows the combined dominion and provincial British Columbia tax, as compared with the United Kingdom and the United States?

MR. ELLIOTT: Yes, Mr. Stewart.

MR. STEWART: That will be Exhibit 130.

EXHIBIT NO. 130: Chart showing combined Dominion and British Columbia Tax as compared with United Kingdom and United States Income Tax.

ELLIOTT: This is, as the chart itself states, while based on the 1934 rates, I may say, that they are the same in Canada, the ^{so} are/slightly different in England that you would not notice it on the chart and the United States is the same. So this is a chart that is really up to date. You will observe that the United States is less severe on incomes up to \$150,000 --- or, first of all, I should explain the ordinance at the bottom, where it says, "Approximate number 92,000." That means the approximate number of taxpayers that pay a tax because they have an income between \$1,000 and \$2,000 --- 92,000.

THE CHAIRMAN: In Canada?

MR. ELLIOTT: Yes, this is a Canadian statement. And the approximate number that pay an income tax between \$2,000 and \$3,000 is 43,000, and so on. As we go up to between 45,000 and 50,000 there are 100 people paying it. Therefore, I group the whole thing in one. From 50,000 right up to 500,000, there are 349 persons. That is a useful piece of information if you want to find out, if you increased the exemptions or decreased them, how much extra revenue you would get,

or how much you would lose. The next is the income and then the percentage of the Canadian rates, that is just our Act. And then that Canadian surtax or investment tax, that was put on in 1935 and made applicable to 1934.

You will observe that the United States graph up to \$150,000 is less burdensome on the taxpayer than is any of the other jurisdictions and for a short time runs parallel with the dominion and then again becomes less. The next most burdensome tax is the Dominion of Canada and then the next burdensome is the United Kingdom. That is taking unit jurisdictions. But, when you combine the Dominion with that of British Columbia you will observe that up to \$20,000 the combined Dominion and British Columbia tax is less burdensome on those individuals who had an income up to \$20,000 than is the single United Kingdom tax. In other words, that means that England alone, speaking of a person having an income up to \$20,000, --- that England alone on her one jurisdiction burdens her tax payors in the group described more heavily than either the Dominion or British Columbia, or the two combined, notwithstanding the fact that British Columbia does not allow the Dominion tax as a deduction from the income before it is taxed. After you pass the \$20,000 you can see that the two graphs rapidly diverge and the heavier incomes in British Columbia, because they have the dual jurisdiction, take \$100,000, the taxpayer has to pay \$55,744.00. That is a percentage statement or dollar statement, whichever way you like to take it. Fifty-five per cent of the income is taken.

THE CHAIRMAN: Mr. Elliott, how far have the different states in the United States gone in the way of income tax? How many of the individual states have an income tax?

MR. ELLIOTT: I would say 90 per cent of them, Mr. Chairman, but may be that is high. Most of them I think have them.

THE CHAIRMAN: Have you anything showing what the United States' tax plus the state tax would be?

MR. ELLIOTT: I have not, Mr. Chairman. That is available in some of these statiscal publishing companies in the States. I would direct your activitites there and I think you would get the necessary information.

THE CHAIRMAN: I was wondering how the burden to the American tax payer of a specific income say \$20,000 of both federal and state taxes compared with the burden of a similar individual in Canada who paid both Dominion and provincial taxes?

MR. ELLIOTT: In the United States with their 48 different states, I would call a person wealthy if he were in the \$20,000 class: drawing his income from various states would have to be subject to so many different state laws that I cannot answer as I would like. However, your question is what is your guess or general view, and my general view is that the individual in the United States pays slightly less than an individual in Canada, but that is subject to so many qualifications that I do not know whether it will be of any great use to the Commission.

COMMISSIONER ANGUS: I suppose there are very few people affected by the Dominion and British Columbia taxes combined in the brackets in which it is heavier in the United Kingdom taxes? If everyone in Canada lived in British Columbia there would be 1,400 in the group

which I have in mind.

MR. ELLIOTT: You would have a tremendously balanced budget with those rates. There are very few wealthy persons, but you have some.

COMMISSIONER ANGUS: Take the whole of Canada, and counting the different provincial taxes there is not a very large number of people who are taxed more heavily than if they lived in the United Kingdom?

MR. ELLIOTT: I think that is a correct observation because this chart shows that in British Columbia you, as a resident there, pay the two taxes, the Dominion and the provincial, but certainly the greater number of people living there pay less under the dual taxes than they would if they lived in England. I am sure Victoria would interested in knowing that fact, and it is a fact, too.

THE CHAIRMAN: Would you venture an opinion as to how the combined effect of the Dominion and the Ontario taxes, at least as to the relative incidence of the Dominion and Ontario tax compared with the United Kingdom tax on incomes of \$20,000 or over?

MR. ELLIOTT: I will work it out on a \$20,000 basis, and you might refer to the first chart I gave you, showing the Ontario tax and the Dominion tax.

THE CHAIRMAN: Yes, Mr. Elliott.

MR. ELLIOTT: You will observe \$786 on the chart. That is a Canadian burden; then if you will look at the Ontario graph above \$20,000 you will see that the tax is \$786. Then if you go up the same \$20,000, you will find that the Dominion tax is \$2,593. Those two amounts give you a total of \$3,379, which is 16.9 per cent on \$20,000—the Dominion and provincial burden. Your question was, Mr. Chairman?

THE CHAIRMAN: How does that compare with the

United Kingdom?

MR. ELLIOTT: They pay \$4,958 which is 25.03 per cent. To answer your question specifically the burden in Ontario on a \$20,000 amount by the dual taxation of Dominion and province is 16.9 per cent, while in the United Kingdom the rate is 25.03 per cent.

THE CHAIRMAN: That difference diminishes as you move up from \$20,000 to \$500,000?

MR. ELLIOTT: That is correct, Mr. Chairman. I will leave that statement with you as I feel that it will answer many questions which may run through your mind.

THE CHAIRMAN: Thank you, Mr. Elliott. That will be Exhibit No. 131.

EXHIBIT NO. 131; Statement showing comparison of Dominion and provincial taxes with those of the United Kingdom.
Submitted by Mr. Elliott.

THE CHAIRMAN: That is what I had in mind.

MR. ELLIOTT: You spoke of Ontario, Mr. Chairman, and I was coming to that chart. Ontario is not on there.

THE CHAIRMAN: This chart gives the Dominion and the British?

MR. ELLIOTT: I may say that the British figures in Exhibit 131 are slightly in excess of the figures on the chart for the reason that there was an increase in the British tax of three pence on the pound. I do not think there is any need of comment on that Exhibit as it speaks for itself.

MR. STEWART: You have a statement of the income tax payable under Dominion and provincial income tax laws made up prior to the adoption of the Ontario Act?

A. That is correct. I would like to put that in as an exhibit.

MR. STEWART: That will be Exhibit No. 132.

EXHIBIT NO. 132: Statement of income tax payable under provincial income laws.

A. I think you have that statement before you?

Q. Yes. A. The main column gives the figures of the Dominion and the taxes of that province. Take the first, British Columbia, the Dominion taxes calculated and then the provincial tax, and then the two are combined. Perhaps one of the striking figures on the statement which Professor Angus will point out to me later will be found in Saskatchewan; when you come to the more wealthy people in Saskatchewan, down at the bottom, if he has an income of \$500,000 he would pay \$493,656.98 out of his \$500,000, and he could keep the balance himself.

THE CHAIRMAN: The balance would probably go on real estate taxes.

MR. ST. WART: Q. What would happen should his income be a million dollars? A. If it were a million he would probably have to borrow thousands of dollars to pay his taxes after he got rid of his million. I am happy to say, Professor Angus, that there is no one who has an income as large as that.

COMMISSIONER ANGUS: Are not the big incomes smaller than they would have been had investors not attempted to escape income tax by investing for capital appreciation?

MR. ELLIOTT: I think capital appreciation has a tremendous effect on the investments of people.

COMMISSIONER ANGUS: And therefore on the economic structure of Canada?

MR. ELLIOTT: Unquestionably.

COMMISSIONER ANGUS: Has any study been made of this feature?

MR. ELLIOTT: This subject is discussed more in the United States than it is here, for the reason that one of the factors over there is what is called "hot money". In the United States there are high taxes, because well to do men bear a very heavy burden, and they say "if I got

"revenue-bearing investments I have to pay out money in taxes", and he looks for something in which to put his money which does not carry the same heavy tax burden. I might say that people in France and England are placing their money in equities in the United States, or in anything which does not give a regular yield. He is anxious to get something which is not subject to the heavy burden of taxation which goes with certain types of investment. This has to be weighed against what I said yesterday about companies wanting to issue more bonds. The incidence pertaining to the man with \$40,000 is different from that of the man with \$300,000, and he has to do decidedly different things, but he is influenced by the burden of taxes on his investment.

THE CHAIRMAN: I suppose it is fundamental in any system of taxation that if a tax exceeds a certain point there is a diminishing in other forms of investment, as the taxes will prevent the realization of income?

MR. ELLIOTT: I think that is quite true, but whether we have reached that point or not, I would not venture a public opinion because it is a thing upon which there is so much division of thought and so many different opinions as to whether we are approaching it or nearer it.

THE CHAIRMAN: The popular idea is that you can increase taxes to any amount and thereby get a greater revenue, but that is subject to that limitation and that general principle?

MR. ELLIOTT: Yes, very true. I would not mind giving an indication because I am, like everyone else concerned in such matters. Speaking as an individual, I think that perhaps we are getting to the point where we must think of the diminishing return.

COMMISSIONER ANGUS: When I was speaking a few moments ago I was merely thinking of the loss of revenue

in income taxes.

MR. ELLIOTT: Of course, if you lose the basis of revenue, you lose the basis of national economy.

COMMISSIONER ANGUS: Yes, I was wondering whether any study had been made. I am not anticipating the results of such a study. The appreciation to avoid income taxes might possibly be better for the country than the investment for immediate income. It might lead to far-sighted planning or it might lead to rash speculation.

MR. ELLIOTT: No such study has been made in my department; in our organization we all have our own individual readings of applications, etc.

MR. STEWART: Q. Have you made any studies as to the effect in dollars of lowering the exemptions? A. That is a study that is more or less active at all times in our organization. All sorts of people ask us, what would be the effect if we lowered the exemptions that you made? Instead of giving a \$2,000 exemption what would be the effect if you gave a \$1,900 exemption to a married person, and a single person having \$1,000, \$50 - is that your question?

Q. Yes. A. Well under the present rates of taxes for every \$100 reduction in the married exemption and every \$50 in the single exemption, it would increase the revenue by \$880,000, so that if you were to multiply that by five, going down to the \$1500 exemption for married and \$500 for single, you would increase your revenue by about \$4,410,000. If you do that, I should point out that inasmuch as there are a great number of people in the lower exemptions who have this increased burden, in the aggregate those up to \$5000 of income would pay 65 per cent of that increase, and those above would pay the balance. That means that individually the lower-exemption man has

a lesser burden in dollars because there is a greater number of them; when you multiply it up it is a big factor. Individually again coming to the wealthier man, he pays a great increase in taxes, but because there is a small number of him, the aggregate of his payments is, as I have indicated before, 35 per cent of the whole. If a man has \$100 000 of income he pays according to the Act 38 per cent. That man if you denied him the \$100 exemption would pay \$38 to the Crown; the \$2000 man pays only 3 per cent, therefore he would only pay \$30 as against the wealthy man paying \$38.

THE CHAIRMAN: That is an illustration of the \$100 reduction in the exemption of married man and \$50 reduction in the case of single man?

MR. ELLIOTT: I am afraid, Mr. Chairman, that I was wrong in what I understood from you. Was it that the married man goes from \$2000 to \$1900?

THE CHAIRMAN: Yes.

MR. ELLIOTT: And the single man goes down from \$1000 to \$950.

THE CHAIRMAN: The second figure you give the married man goes down to \$1500 and the single man to \$500 or \$750, is that it? Or do you continue the proportions the same?

MR. ELLIOTT: I mean \$750. You are quite right, because I was moving down \$5 by this means. Thank you, Mr. Chairman.

MR. STEWART: Q. How do you work this \$880,000 for each \$1000 deduction? A. The way it is done is this: We take the number of persons under \$2000 and find that there are 89,724 persons paying tax on the first thousand dollars of income. Now they pay at the rate of 4 per cent. As I mention there were 89,724 under \$2000 in the single group, therefore it is a reduction of 4 per cent on \$50 that would come on him as an added exemption. The 4 per

cent is \$2. You multiply that \$2 by the number of persons who get the saving of that \$2-89,724 means the total tax return in that bracket to the tax payer, or the increased revenue is, to the Crown \$179,448.

Q. On this reduction of \$2 there are 89,000 individuals?

A. Yes. Then if you go to another bracket of income - the income between three and four thousand dollars - those who have incomes in next bracket number 28,604, and if the exemption were lowered for married persons as I have indicated by \$100 the additional tax per tax payer in that group would be \$5. Here again, multiply that by the number in that group and that group would have to pay to the Crown \$134,000. In like manner we go through each class of income, taking the number of people in it and multiply that by the savings from the increased burden that they have to bear. That gives the total for each group, and gives \$880,000 for the group to which I referred in detail.

MR. STEWART: In that \$880,000 is there included those who would become tax payers as a result of the reduction? A. No, there is no calculation for that?

Q. It would increase the burden by \$880,000 per unit of reduction of those paying income tax? A. That is correct.

Q. Are you basing your figures on the year 1936? A. 1936. If the Commission wishes I will give them these calculations as an exhibit.

THE CHAIRMAN: I do not think we need them, Mr. Elliott, thank you.

MR. STEWART: Has any study been made of the proportion of national income that is reached by the income tax, that is actually assessed for income purposes? A. That could be compared, if you would take the statistical records maintained by the Dominion government and our own statistics which you will find in Exhibit No. 125.

Q. That is assessible income? A. Yes.

Q. You have no comparative set of figures? A. No. I am only dealing with income and wages which are taxable, of which we would get a percentage.

Q. Have you any figures, or comparative figures, as between say Canada and the United States on the subject of the proportion of income that is actually assessed for taxation purposes? A. No, I do not think that we have made any study of them.

Q. Or as compared with any other country? A. We have not done it in that way.

Q. Are you able to state the relative cost of collecting in the various brackets of income tax? A. No, we could not state that. I take it as a whole. I can give you some general ideas on it, because unquestionably the cost of collection in the lower brackets is much higher. There are two reasons for this. First of all you collect so much less from each person, and you have to go over his whole affairs and sometimes his records are not fully accurate; then there is considerable correspondence and difficulty in the lower brackets. In the higher bracket it is safe to say that a man's affairs as they refer to us are more easily accessible than in the lower group.

Then the information returns that you get are so numerous in the lower brackets that you move into the field of those who are not taxable at all, but so close to it, that you have to deal with them all. This involves a great deal of work from which no money is received. I am referring to the \$2000 exemption in order to indicate the cost in the lower group.

Q. That is because of the relatively larger number of cases which have to be studied? A. Exactly.

Q. And the lower yield per head in that bracket? A. Those are the true factors.

Q. You are not suggesting that it increases per head, but per dollar of revenue collected? A. I am talking of per dollar collected.

Q. Have you had your attention called to the Brief of the Canadian Manufacturers Association? A. Yes.

Q. I am referring now to Exhibit No. 88. On page 8 of that Brief the suggestion is made that the allowance on depreciation for income tax purposes should include obsolescence, with a view to increasing the efficiency of plants. Is obsolescence not included in the allowance?

A. No, it is not; it is regarded as capital. I think that is the interpretation particularly in England.

Q. The same is true in England, is it? A. Yes. For a long time they were very severe on allowing depreciation because it was a capital increment loss.

THE CHAIRMAN: Do you allow manufacturers some reserve to provide against obsolescence?

MR. ELLIOTT: No, we do not, Mr. Chairman. Obsolescence is something which happens because that particular unit of machinery, or it may be a building, suddenly by reason of a new discovery becomes of non -competitive value - they cannot turn out whatever it is at such a cost that it will compete with the other improved machines. Obviously that is capital loss. The thing he has spent his money on is suddenly gone. It is a matter of degree. Sometimes people lose and sometimes not.

THE CHAIRMAN: How can there be a profit when you speak of capital loss?

MR. ELLIOTT: If I might give you a striking example - how might there be a profit when there is a capital loss? Supposing a company carried on its business for a year and the insurance on its building had lapsed through negligence or carelessness or from the fact that they wanted to take a chance, and during the year that company

sold out at a handsome profit, and they made during the year, let us say \$50,000. On the 31st of December, if that is their fiscal basis fire destroyed that building. Unquestionably they may pay income that year and unquestionably they had a capital loss, and our law is so based that that company would still have a tax to pay on its income.

THE CHAIRMAN: Quite.

MR. ELLIOTT: But if you ask me economically if they made anything, if the building, say \$50,000, was a total loss, they never made a cent.

THE CHAIRMAN: When I speak of obsolescence I am not expressing an opinion as to whether it should or should not be allowed. It seems to me it stands in a more or less different category from the illustration you have made. Obsolescence is something against which a manufacturer cannot protect himself. It is a change due to improvements in the process of manufacture, and he must substitute new machinery for old, if he is to carry on his business on a sound basis. One would think that that would be a fair subject for allowance unless the manufacturer is going to double his entire capital to provide new plant to take place of the old.

MR. ELLIOTT: There are two thoughts. We are only discussing it generally, and these are my own thoughts on it and have nothing to do with the government. As you say there is a difference between the example I gave you and the loss of capital I gave you, and a loss there has been in my example - fundamentally it is a capital loss no matter how or what occasioned it. So I suggest to you, Mr. Chairman, that that being a capital loss and dealing with income tax, and capital consideration not being within that Act, that there is no difference between them and the economic features. Then you come to the second point,

the one can be perhaps guarded against and the other cannot, therefore because of means, not principles, we are going to deal with them in a different way. Thirdly, obsolescence is not quite as clean cut as the mind can set it up. Another man has a machine on which he puts some improvements and he does a little bit better work than his competitor. The competitor says "I want an allowance for obsolescence." We say "prove your obsolescence". There are shades and degrees and differences which no government official or the company itself can say with certainty. Therefore you are introducing a thought that though the principle of allowing no capital is a safe one, we intend to use a fair basis; we will allow some obsolescence and I am inclined to say let us be fair always, but if you found it on something which does not leave it open that hazard comes in to the question. Then speaking of reserve. The reserve is only a predetermination of something yet to happen.

THE CHAIRMAN: You do allow for depreciation?

MR. ELLIOTT: Yes.

MR. STEWART: Q. In so far as it consists of wear and tear? A. Yes.

That question that I touched upon about reserves, it was a subject of great difficulty for many years in the income tax. They wanted a reserve. If you were on the board you say "let us have a reserve for that; it is our business to reserve against that change", and they would come to us with most plausible arguments. You would have to say that is all right from the business view but it is not the law. The Act provides that no deduction shall be allowed in respect of any cutaway loss or replacement of capital or in payment on account of capital, except depreciation and depletion. No allowance is made for obsolescence except "as otherwise provided".

MR. STEWART: Q. In Canadian Manufacturers' Association Brief the suggestion is made that there is an absence of finality in the provisions of the Income War Tax Act at the present time, and the suggestion is made that there might be a speedier audit for the determining of tax liability. Have you any comment to make on that suggestion? A. Are you leaving it open to me, or is it really a question, as I do not wish to make comments when I have not the other side here. I do not wish to argue against them in their absence.

Q. From the administrative point of view would it be possible to have a speedier audit of corporation books?

A. That, of course, is a question of degree and expense. I told you in my opening remarks that we had 414 assessors. Some portion of these go into the business world and at the place of business investigate the affairs of tax payers. How many auditors are required to, let us say, annually pass on the affairs of all businesses throughout Canada? I would suggest just as many auditors as do it today in the business world. That would mean all the auditors in Canada under government pay; it would be the same thing for us as for the business itself. From this you will see that while an annual audit is a desirable thing it is not a practical thing. Further all those businesses are under survey by skilled persons and the results should be substantially correct, save in the question of fraud, and that is not under consideration. There are considerations internally in regard to auditing, but our auditors should examine three years at once; two years if possible but I do not think it works out that way. If anyone wishes to suggest that we speed it up I would have no objection but I would point out that it is going to cost a great deal more. I might say that in England they do not carry on an annual audit such as the manufacturers's Association

suggest.

Q. I do not think the Manufacturers' Association suggested that in Britain there was an annual audit; their suggestion was more in the line of cooperation. A. They have no doubt given the matter consideration and are trying to get at the facts. I would not like to accept the statement that they made no attempt to audit the books of the tax payers.

Q. Do you make a detailed audit of the books of the tax payer? A. We do not carry out a detailed audit either. We do not go over all the vouchers, nor do we say to a tax payer "we are going to examine all the vouchers and make up a new set of books to see how they compare with yours". We do not go into details like that, but we examine the major items of all businesses. It is impossible to go into every detail.

Q. They also suggest that after a period of two years or three years after the return has been made the assessment would not be subject to re-opening except in cases of fraud. A. If I may go back to what you read a moment ago, can you see the word cooperation?

Q. It was an unfortunate word. A. I make the statement to the manufacturers that their cooperation is given, I think ours would be so designated by them.

Q. In respect of cooperation I should say "after conference with the auditors". The suggestion is also made that two years after the returns have been filed or the assessment made there should be finality and the assessment should not be liable to re-opening except in cases of fraud. A. I think in reading through their Brief they mention one example; I would say that was striving for an example to endeavour to prove a principle or course of action on a parallel which really does not exist. True, there are certain accounts so badly made that when we come

to survey them we find the true income has not been shown. Is it wrong to say that any person who does not pay his just share should have his case re-opened or should benefit thereby? Does anyone suggest that principle? Time in itself is not a principle - a thing is right or it is not right and the wrong is not erased by time. Some people contend that time does erase such things. It is not fair to say that because a person makes an error this year and that the passing of say two years automatically corrects that error. If that were the case the burden in the matter of liabilities would be shifted from those who made the mistakes and placed upon those who were not responsible for them.

Q. It is true, as a general principle between individual and individual there is a time limit when your mistakes can be called against you. I am referring to the various statutes of limitation. A. That is not mistakes, that is law, the action on the part of a man who knows his own rights. For example you hold a promissory note, and if in respect you do not take action of that note which you hold in your possession, the statute bars. Let us reverse the situation. A man owes you money; there is nothing in writing - the statute does not start to run until you have it in writing. If the debt is acknowledged, you get another six years. You will see there is no similarity at all.

Q. In the Statute of Limitations there is the point about "information." A. I might say if I had a note with you for \$100, which I have not, if I did not take action on that note within six years then I am statute-barred from taking action. I have all the information. The Manufacturers' Association contend the Crown has no information respecting the amount that a manufacturer owes the Crown, and that fact relieves a man of his burden after two years.

I do not think the government would accept that principle. That is my opinion and not that of the Crown.

Q. I am putting this to you, not arguing the point, but they are arguments put before the Commission. There was one of them raised by the life insurance companies that there was a hardship in the matter of annuities inasmuch as your department taxes the amount of the annuity without making any distinction between the principal and interest contained in the payment. A. That is a controversy, Mr. Stewart, which has been in existence for a great number of years, particularly in England. In the early history of their administration the matter was brought before the courts as to whether the person who had capital and bought an annuity, and therefore lived on his annuity, was subject to tax. The argument was that part was capital and part income. From the business point of view that is not law; that sounds very reasonable to anybody, but this man had selected to pay away his capital and secure to himself for such a period as he contracted, an annual income, and his ability to pay that annual income was the same as that of anybody else who had an annual income, and he selected to handle his affairs so as to get back his capital and pay on that portion as income, that is his gain . If I might paraphrase the language of the Court it is this "if a man chooses to pay away his capital and purchase an income he is purchasing that which is taxable under the law". Income is taxable and therefore the jurisprudence on the question is that annuities are taxable.

(Page 3640 follows")

A. Yes, but in 1918, there was a Royal Commission set up to investigate the Income Tax law. Before that Commission was brought the question by these people concerned with it, asking would they amend their law in precisely the same way as is now asked. Now, I am giving the facts; I want to make that clear. I am not arguing against this amendment; I am just giving the historical facts. I have given you the law on it as was decided in the case, so I will now read from the Report of the Royal Commission on Income Tax of 1919. I will read from page 71 of the Appendix number 7 J. It is headed "Historical note on terminable Annuities." This is not a life annuity, it is a terminable annuity. I quote:

"From the early days of income tax in England there have been those who questioned the justice of imposing the tax upon the whole of the income derived from the life or terminable annuities. The income from these annuities has always been treated by the Income Tax Acts as income chargeable on the full amount of the annuities, without regard to any question of capital involved."

I will also read paragraph number seven;

"Mr. Lowe, in his unadopted drafted report epitomized the views of the opponents of the change. He said: 'The annuitant has no right to expect that the State should be more careful of his capital than he is himself, or that the State should be very nice in re-discriminating that capital and income which he has been at such pains to mix together...'"

Inferentially, that might be an argument, but I hope it won't be regarded as such. It is merely a statement of fact.

BY J.R. STEWART: Do you know what the American practice has been. A. Yes, the American practice is that they separate the income from the capital, and tax only what they believe is a reasonable yield on that capital.

Q. I just want to mention that they also object to retroactive taxation legislation, but I suppose that is a matter upon which you do not care to express an opinion? A. I think I would express an opinion on that because there is no person with whom I have spoken, in or out of the government, who does not want to get away from the retroactiveness of legislation. I have discussed this matter every year during which a change in the tax has been contemplated. This is what happens, and this applies to a great many of the ministers; as our burdens increase we have to get more revenue. The Minister of Finance looks about him to see from what he could get that revenue. Last year's income is going to be taxed this year. Will we apply the rate to that income or will we apply the rate to the next income? Our need is great, and while we fix the rate now, there is always the question whether to bring it into force at once or wait until next year. I want to say in that connection that a good many of the Ministers of Finance have had to do what was not in their hearts to do. If you are dealing with a particular case, what I said about going back two years to correct a mistake is applicable here.

THE CHAIRMAN: There are just one or two questions

which I should like to ask you. You have given us a comparison with the United States, have you made any comparison between the Dominion income tax and the federal income tax in Australia? Can you tell us, broadly, how they compare?

MR. ELLIOTT: I am sorry, I do not know.

THE CHAIRMAN: You have not studied New Zealand?

MR. ELLIOTT: When you say, I have not studied -- It is just that I am not interested. I can inform you about the law in Australia. In the matter of jurisdiction there is a great deal of interesting information, that is, on the right of the provinces to impose a tax. It is extremely well done and they are most controversial. When you say, "Do I know the laws," I know there is jurisprudence, but I do not know the rates.

THE CHAIRMAN: Just one other question, Mr. Elliott, and I do not want you to answer it from the standpoint of policy. I am asking it from the standpoint of your experience as an administrator. It has been suggested to us in certain Briefs that the Dominion might increase its income as there are one or two suggested services which should be undertaken. One of these would be lowering the exemption, to which you have already referred, in the lower brackets and increasing the rate in the higher brackets. You inferred that it was possible we might be reaching the point where higher taxation imposed on these high brackets might not yield such returns. Is there anything further you would like to add on that point?

MR. ELLIOTT: I would prefer leaving that to the Commission, that is a big problem. I think, Mr. Chairman, that I must express appreciation at being asked this

question, but it is so difficult I could not touch it and I think you will have a little trouble with it yourselves.

THE CHAIRMAN: I am not asking it from the stand-point of policy, whether it would be wise or not, but whether in your experience in administering the income tax you have arrived at any conclusion on the point, or would you prefer leaving it as it is?

MR. ELLIOTT: I want to be as helpful as I can, but certainly I must not touch on points of policy. Those are outside my field. However, where my experience can be of use to you, I want to go as far as I can--I think I appreciate your suggestion. I only indicate the further thought that some of the provinces now administering, have lower exemptions than we have. When you say lower exemptions the mind naturally turns to lowering it for the great mass of the people. Then, you added an "increased rate for the higher brackets." Let me point out one thing, when you lower exemptions you do it for the rich man as well as the poor. You are in fact, putting a bigger burden on him than you are on the little fellows. If you lowered it on the little fellows and raised it on the richer man, you would be doing two things to the richer man, and only one thing to the poorer man. Every time you touch an exemption, you have hit the rich man to the extent of twenty or thirty per cent, but the little fellow only to the extent of two or three per cent. This means a big increase in money payments, whether you do it by exemptions or not.

THE CHAIRMAN: Thank you, very much, Mr. Elliott, for your most interesting and helpful statement. We

appreciate the labour which you and your associates have put upon this presentation.

MR. ELLIOTT: I think there might be one more exhibit, that is the table of the income for all fiscal years.

MR. ST. LAURENT: That will be Exhibit 133.

EXHIBIT No. 133: Table of Income Tax for all Fiscal Years.

MR. ELLIOTT: Is that all you wish, gentlemen?

THE CHAIRMAN: Yes, thank you, Mr. Elliott.

MR. ELLIOTT: I would like to indicate that we stand ready at all times to give you any more information which you may require. I would be very glad to come back at any time. I appreciate very much the courtesy which has been extended to me both by the Commission and Counsel. I have submitted to the Commission some eighty-four different exhibits which I hope will prove of some aid to you.

THE CHAIRMAN: We will continue for a brief period our investigations on this subject of taxation. Mr. Sim is here, and he will present his views upon the subject.

MR. DAVID SIM, Commissioner of Excise, was called.

BY MR. STEWART:

Q. Mr. Sim would you indicate what taxes are collected by the Excise Division of the Department of National Revenue--before that, it may be well to understand that you are the Commissioner of Excise? A. I am.

Q. It is one of the branches of the Department of National Revenue, is it not? A. That is quite correct, and I was appointed in January of 1934.

Q. Mr. Sim, would you indicate what taxes are collected by your division? A. I should be glad to table complete statistical information with regard to the various taxes and duties which are collected by our division. I regret that I have not a sufficient number of copies to supply one to each person. I have enough for the Counsel and perhaps one for The Chairman.

MR. STEWART: Perhaps this should be marked as an exhibit, now.

MR. CHAIRMAN: We will do that, now.

EXHIBIT NO. 134: Yields from various taxes.

MR. SIM: I shall give the excise taxes and perhaps the yield for the last fiscal year to indicate the relative amounts of the taxes:

Consumption or Sales Tax (for year ending (March 31, 1937.)	\$116,138,000.00
Special Excise Taxes	15,415,000.00
Tax on Sugar, Glucose, and Grape Sugar	10,583,000.00
Stamp Taxes, which in the main would be taxes on bills of exchange and stock transfers.	5,543,000.00
Tax on Matches	1,542,000.00
Tax on Cigarette papers and tubes	1,220,000.00
Toilet Preparations Tax	975,000.00
Telephone Tax	687,000.00
Tax on Rubber Tires and Tubes	919,000.00
Tax on Automobiles	544,000.00
Tax on Cable, Telegraph and radio messages	460,966.00
Tax on Berths and Parlour Cars	433,654.00
Tax on Soap	203,594,00

Tax on Embossed Cheques	\$252,000.00
Tax on Playing Cards	228,000.00
Tax on Wines	207,190.00
Tax on Mechanical Lighters	144,286.00
Tax on Cigars	124,235.00
Total of the Excise Taxes Collected during the fiscal year 1936-37	\$155,759,000.00

In addition to these taxes, are the excise duties provided by the Excise Act. From these we received the following amounts for the fiscal year ending March 31, 1936-37.

Spirits	\$7,591,000.00
From Non-Potable Spirits (used in perfume factories)	725,574,00
Validation Fee--This is imposed upon the exporters of liquor to foreign countries.	1,955,000.00
The Duty on Malt--which is the method by which we obtain our revenue from beer.	8,050,380.00
From Malt and other Substances	390,000.00
Malt Syrup	160,175.00
Cigars	372,000.00
Cigarettes	23,345,926.00
Cut Tobacco	3,124,000.00
Plug Tobacco	738,608.00
Snuff	161,137.00

THE CHAIRMAN: Snuff is not used quite so largely as cigarettes.

MR. SIM: No, but there seems to be a fairly consistent demand for snuff. The revenue has not varied for years. You will note that for the three years

listed the revenue does not vary a great deal. I do not think it is being put to quite the same use at the present time as it was formerly. I think it is now used a great deal for chewing.

Foreign Raw Leaf Tobacco--

This duty has since been trans-

ferred to the customs (1936-37)	\$175,320.00
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From Licenses	38,891.00
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Grand Total of Excise Duty collections 1936-37	\$46,729,955.00
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MR. STEWART: The last pages of this folder indicates the changes in the rates of the Sales Tax from 1920 to date? A. That is correct. I thought that statement might be of particular interest to the Commission because it shows the variations of the Sales Tax since its inception. It also shows the variations in the rate of the Special Excise Tax from 1931 to date.

Q. Mr. Sim, are any of the taxes collected by your division duplicates of the provincial taxes? A. Yes, the stock transfer tax is duplicated in the provinces of Ontario and Quebec.

Q. Any other duplications? A. There are no other real duplications of our taxes.

Q. Would you be willing to express an opinion as to whether your division could undertake the collection of stamp taxes to which you refer? A. That is the stock transfer tax?

Q. Yes. A. It is a matter of opinion whether any continuing good would accrue from such an arrangement. I understand it was represented to the Commission that it would be beneficial. It would appear that a single administration for the stock transfer tax would obviate

the necessity of double returns. It would only be necessary to send in one auditor instead of both a federal and provincial auditor.

Q. There would only be the one auditor? A. Yes, and it would remove the possibility of conflicting rulings on some points of law. During the time which this has been discussed with the provinces there have been some objections raised, the principal one of which was that it would necessitate the discharge or absorption into other services of a large number of provincial employees. Another, and slightly smaller difficulty, would be the necessity for bringing the Acts into absolute uniformity before there could be any hope for a single administration.

Q. Uniformity, certainly with regard to the incidence of the taxes. A. That would certainly be essential.

Q. I imagine the actual rate could be worked out.

A. There is not really any material difference in the Acts of the provinces and our own. I think the Ontario Act was modeled largely on the federal statute and I think that is also true, to a lesser degree, in the case of Quebec. The rates are almost the same.

Q. I assume, Mr. Sim, that you have seen the statement made to this Commission by the Canadian Manufacturers' Association, and in particular their statements with regard to the Sales and Excise Taxes?

A. I had an opportunity of reading them, Mr. Stewart.

Q. A number of statements are made in that Brief that have particular reference to the Sales Tax, and I should like to get your views regarding them. The argument was raised by the Manufacturer's Association in support of

their statements that the Sales Tax should be decreased, or in time, abolished. There are three points to which I wish to direct your attention: The suggestion that the Sales tax increased the cost of governmental administration. In support of that the following statement was made on page 3 of the Brief, because of the administration of this law it has been necessary to establish a department of the government with a large staff of employees, including officers, attached to the different Customs Houses. It also states that it is necessary to have a large staff of government auditors, who are engaged in auditing the business of licensees from time to time. A. That statement is not entirely accurate, certainly no department was formed. What happened was that the government took the old Inland Revenue division and merged it with the Customs, as I recall it, in the year 1921. The tax in its present form came into being in 1925, so that all that happened was that the government simply asked the existing department of excise to take it over. There has been some increase in the staff. You can appreciate that there was created the necessity for more auditors. There has been some additions to the head office staff to deal with the questions which come to them. However, no special department of government has been formed in that regard.

Q. The second point is that the Sales tax increases manufacturing costs. This is dealt with at the bottom of page 1 and the top of page 2 in the Canadian Manufacturers' Association Brief. They state that, "Purchases for the construction, equipment and operation of his factory, on advertising, on office supplies, and on machinery, patterns, dies, tools, etc.," are subject

to a Sales tax which the manufacturer has to include as a part of his manufacturing costs. Is that statement accurate? A. It is correct in so far as it relates to advertising, office supplies and machinery. You will notice it also refers to materials which would be consumed in the manufacturing processes. Of course, all raw material or semi-manufactured goods can be purchased free of tax under the licensing system. There was an exemption in the Act of 1925, but in 1933 when the need for revenue was felt, the government cut out the exemption. However, since 1936 there has been an amendment to the Act exempting those materials which will be found in Schedule III of the Special War Revenue Act. There is a complete list of exemptions contained in that Schedule. Part of it reads as follows:

"Materials, not to include plant equipment, consumed in the process of manufacture or production which enter directly into the cost of manufacture...."

So that statement is not correct in that respect.

Q. What page is that on? A. It is on page 38 of the Special War Revenue Act. I quote:

"Materials (not to include abrasives, lubricating oils, fuel oils or non-permanent plant equipment) consumed, or otherwise than by waste or wear, in the process of manufacture or production of taxable goods."

Q. It is claimed that one of the effects of the manufacturers having to pay sales taxes on these items referred to--under the heading of Manufacturing Costs--is that it works to his disadvantage as compared with the importer of manufactured goods. This is on page three under Subheading G: . . . "The sales tax operates

"as a discrimination against domestic products as compared with imported products." A. Yes, the statement there is that the purchase price, "of raw and semi-manufactured materials will not include any item of tax--". This presupposes that there are no taxes in the country from which those goods would come.

Q. I suppose the point is that insofar as the Canadian organization is concerned, he does not? A. I think it should be read in the light of the explanation I have just given, that raw material or semi-manufactured goods are exempt. Mr. Norman, asks me to make it clear to you that I was speaking of Canada.

Q. It is suggested that the sales tax in Canada is a burden imposed upon the manufacturer which the importer does not have to pay. It is suggested that the manufacturer is collecting the tax for the government, whereas the importer is looked after or his returns are looked after by the government Customs or Excise Organization? A. I think the only thing which can be said in that regard is that every time a person imports goods he has to pass the customs and is, perhaps, put to more difficulty than the manufacturer. The manufacturer makes up his statement of sales at the end of the month, but on every occasion that the importer gets a shipment of goods he has to pass through the Customs and compute the duty and taxes. I do not think there is much in that point.

Q. You do not think it involves any particular burden which the manufacturer has to carry? A. I do not think so. I would like to have the other people here to debate the point, but it would appear from what I understand the situation is, that there is no special

hardship imposed upon either the importer or the manufacturer?

Q. Are you able to give the Commission a statement as to the costs of collecting the various taxes that come under your jurisdiction? A. Obviously, in as much as all the taxes are collected by the same staff, you cannot apply the cost of that staff to any one tax. There is a further complication since the staff in the Excise Department is the same as the staff in the Customs Department. The collection of customs and excise revenue must be considered in the light of customs and excise expenses. I think our collection expenses for last year were 2.71 per cent of the combined services. I think it is only fair to say that the cost of collecting the excise tax would be considerably less. This figure would be an outside figure and the figure for the excise tax would be considerably lower.

THE CHAIRMAN: Mr. Stewart, before you pass from that, will you ask Mr. Sim if he has an estimate of the cost of collecting the sales tax?

BY MR. STEWART:

Q. Have you any estimate of the cost of collecting the sales tax, Mr. Sim? A. No, the same difficulty occurs there, Mr. Chairman, as I have already pointed out. The same staff which is collecting the customs duties at the different ports is also collecting the sales tax.

THE CHAIRMAN: You do have a good many inspectors though, do you not, in connection with the sales tax who inspect and examine the books?

MR. SIM: Oh yes, we have in the neighbourhood of two hundred auditors, and we have a staff at headquarters. It would be unfair, however, to simply take

the salaries of these men and apply them in relation to the sales tax costs. They are more or less checking up because, except in rather isolated cases, they do not really collect the taxes.

THE CHAIRMAN: But of course they are a part of the charge upon the government in the collection of these taxes?

MR. SIM: Oh yes, but they are inspectors engaged in the work of checking on these people.

THE CHAIRMAN: You said the cost of collections would be less than what?

MR. SIM: Less than 2.71 per cent.

BY MR. STEWART:

Q. Would you say that the sales tax would probably be more than that figure? A. No, it would probably be much less because of the tremendous amount of revenue involved for what, after all, is very little work.

Q. Then it is the customs branch which bears the heaviest portion of the expense? A. I should hesitate to confirm that but it is obvious from the total revenue which is about eighty million dollars, and ours which is something in the neighbourhood of two hundred million. It is for this reason that I had said the staff in use costs only about 2.71 per cent.

Q. The suggestion was made, Mr. Sim, in the same Brief to which I have referred that where a purchaser of goods from a manufacturer becomes bankrupt or for any reason is not able to pay the manufacturer, that the manufacturer should be entitled to a rebate of the Sales tax on those goods for which he has not been paid.

They contend that there should be some system of refund in such cases. A. One of the prime objections to that is that such a privilege may be abused. You have to come back to the circumstances under which the tax is levied. It is a tax levied on the manufacturer, it is not levied on his customers. It is levied on him, and it is part of his manufacturing costs. It would be a rather risky business. If you have a system of refunds for bad debts, you would be paving the way for fraudulent transactions. However, it is rather a matter of policy.

Q. Is there any provision for refunds or drawbacks on the sales tax? A. Yes, there is in the case of goods exported, because it is axiomatic that the export of goods should be free. For this reason there is a drawback on the export of goods.

Q. To the full amount? A. Ninety-nine per cent.

Q. The statement is made in this Brief. I want to give you the exact words, "As the financial situation improves, the rate of sales tax should be reduced gradually and, when the revenue requirements of the Dominion permit, this type of taxation should be discontinued." I should like to have your opinion on that, having regard to your view as to the nature of the tax and your experience in its administration.

A. Any change in the rate of the sales tax obviously involves a question of governmental policy and I would not care to comment upon that portion of the question. I consider the sales tax to be a fair, equitable tax which is based upon the ability to pay. No one is subject to it, unless he makes a purchase and the necessities of life are for the most part exempted.

THE CHAIRMAN: Would it suit your convenience, Mr. Sim, to continue on Monday at 10.30 a.m.? We desire to recess a few minutes before one o'clock today in view of the opening of Parliament. There are one or two questions which we would like to have you clear up. There will be no public session of the Commission tomorrow, as we will be in executive session, but we will resume here, on Monday at 10.30.

(The Commission adjourned at 12.55 p.m., until 10.30 a.m., Friday, January 28, 1938.)

ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

REPORT OF HEARINGS

Canada

REPORTERS:

George Thompson
John Robertson
David Torry



OTTAWA, ONTARIO, JANUARY 28, 1938.

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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

OTTAWA, ONTARIO, January 28, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Chateau Laurier, Ottawa, Ontario, on Friday, January 28, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROWELL....CHAIRMAN	
DR. JOSEPH SIROIS	}
JOHN W. DAFOE, Esq.	}
DR. ROBERT ALEXANDER MACKAY	}
PROFESSOR HENRY FORBES ANGUS	}

Commissioners

Commission Counsel:

Louis S. St. Laurent, Esq. K.C.

James McGregor Stewart, Esq. K.C.

Secretariat:

Alex. Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.	Assistant to the Secretary

PRIVATE CONFERENCE WITH:

Dr. Heinrich Bruening.

Salon A,
Chateau Laurier
Ottawa, Ontario,
January 28, 1938.

MORNING SESSION

The Commission met at 11 A.M.

THE CHAIRMAN: May I say to Dr. Bruening on behalf of the Commission how greatly we appreciate his coming here and giving the benefit of his experience and his views in the operation of the federal authority and constitutional system and its statutes. Perhaps Dr. Bruening would be good enough, as a preliminary and for the purpose of the record to tell us for how many years he was a member of the Reichstag?

DR. HEINRICH BRUENING, of Germany, was called.

DR. BREUNING: Since 1924, your Honour.

THE CHAIRMAN: You became Chancellor in 1930?

DR. BREUNING: In March, 1930.

THE CHAIRMAN: And continued until May 31st, 1932, and then during that period, 1924-30 you were leader of the Centre party?

DR. BRUENING: Then I became Chancellor. Of course that leadership did not continue.

THE CHAIRMAN: Prior to that time when in the Reichstag you were leader of the Centre party?

DR. BRUENING: Yes.

THE CHAIRMAN: Mr. Stewart, our counsel, will ask you questions on points upon which we would like you to give us the benefit of your views.

MR. STEWART: Would you summarize, Dr. Bruening, the provisions of the constitution of Weimar, I believe?

DR. BRUENING: Yes.

MR. STEWART: Emphasizing the points that are common to federal systems of government. I think it would

be better perhaps, to frame my question in a general way, rather than ask you specific questions.

THE CHAIRMAN: Yes. The distribution of powers between the Central and the State powers?

DR. BRUENING: I shall try to do it briefly. The Bismarkian Constitution was the growth of tradition and history and was absolutely different from the Weimar constitution in its main points. The constitution which Bismark made was from the abstract point of view not a very clear constitution, but it was marvelously adapted to the needs and traditions of the country and was very sound in all its details. It worked very well on the average, and the main point was that the greatest improvements were brought about by a sound financial system in the federal states and municipalities. The Reich got only the excise and the customs revenue; the other taxes were left to the federal states and municipalities; the federal states, in their own right imposed an income tax, and the municipalities were allowed to take an additional income tax, but the general level was received by each individual state. In municipalities which were well administered and with a not too quickly growing industrial population, in the average state, the municipalities were able to carry through with their own special taxes and in addition to them 100 per cent addition to the state income tax. Municipalities which had very high social expenses, say the mining towns, had to impose sometimes 400 or 450 per cent additional income tax to state income taxes. It was a very good system because it educated the people in the municipalities to follow very closely the policy of the town councils. Generally, say a town had for five years a rate of 200 per cent, of the state income tax, and they were raising that income tax because they were spending 250 per cent, in the next election the people would turn against the majority of

the town council, and I think it was one of the best parts of the whole pre-war system which we had in Germany.

THE CHAIRMAN: Just at that point, Dr. Bruening, is it your view that as a result of your study and experience in the administration of federal and municipal affairs, it is a wise thing that the governing body which spends should raise its own revenue?

DR. BRUENING: Yes, I claim from all my experience that it is very difficult to carry on a sound policy if the responsibility of each of these bodies, municipalities, federal states and the central government, is not clearly recognized by the population. The authority bearing the burden is always responsible for raising the revenue. Under the Weimar constitution, there are consequences to the country, municipalities, (under the new system which I will explain later). The people say it is not our fault, because we did not get enough from our state, and the Diets of federal states are always complaining about the Reich, (the parliament of the central government in Berlin). They say we should control our whole financial policy and if these people in Berlin would give us higher sums we would take over some of the duties regarding unemployment and the like. I may say that perhaps is not an answer to the question which you put to me. Our reform matters, which we carried out since 1930 had one important aim, that was to allocate clear and definite responsibilities as regards financial matters as between the Reich central government and the federal states and municipalities, so that every citizen was quite clear about each of these three bodies in regard to standing. And it was a sound policy, I think, under conditions in Germany, at least. For democracy and constitutional government it is absolutely necessary that a citizen, as regards taxation, etc., have a clear idea where the fault

really lies. I mean to say whether it is the municipalities', the federal states' or the central government's. Otherwise they could not make their minds up, and in any complicated problem know what to do. The Bismarckian constitution followed the sound principle based upon the ideas of European liberalism of the nineteenth century. There was one exception: Providing that when excise and customs were not sufficient to pay for the expenses of the central government, it was provided for in the constitution that the federal states should give certain grants, matriculas-beitrage, if I may so call them, to the central government.

COMMISSIONER ANGUS: Was the right to vote in the municipalities related to the payment of income tax in most states?

DR. BRUENING: Yes, that was very important, and in the diets of most of the federal states.

THE CHAIRMAN: Perhaps we could come back to this point later on.

DR. BRUENING: Just as you wish, Mr. Chairman. If you will remind me about it later I will deal with it.

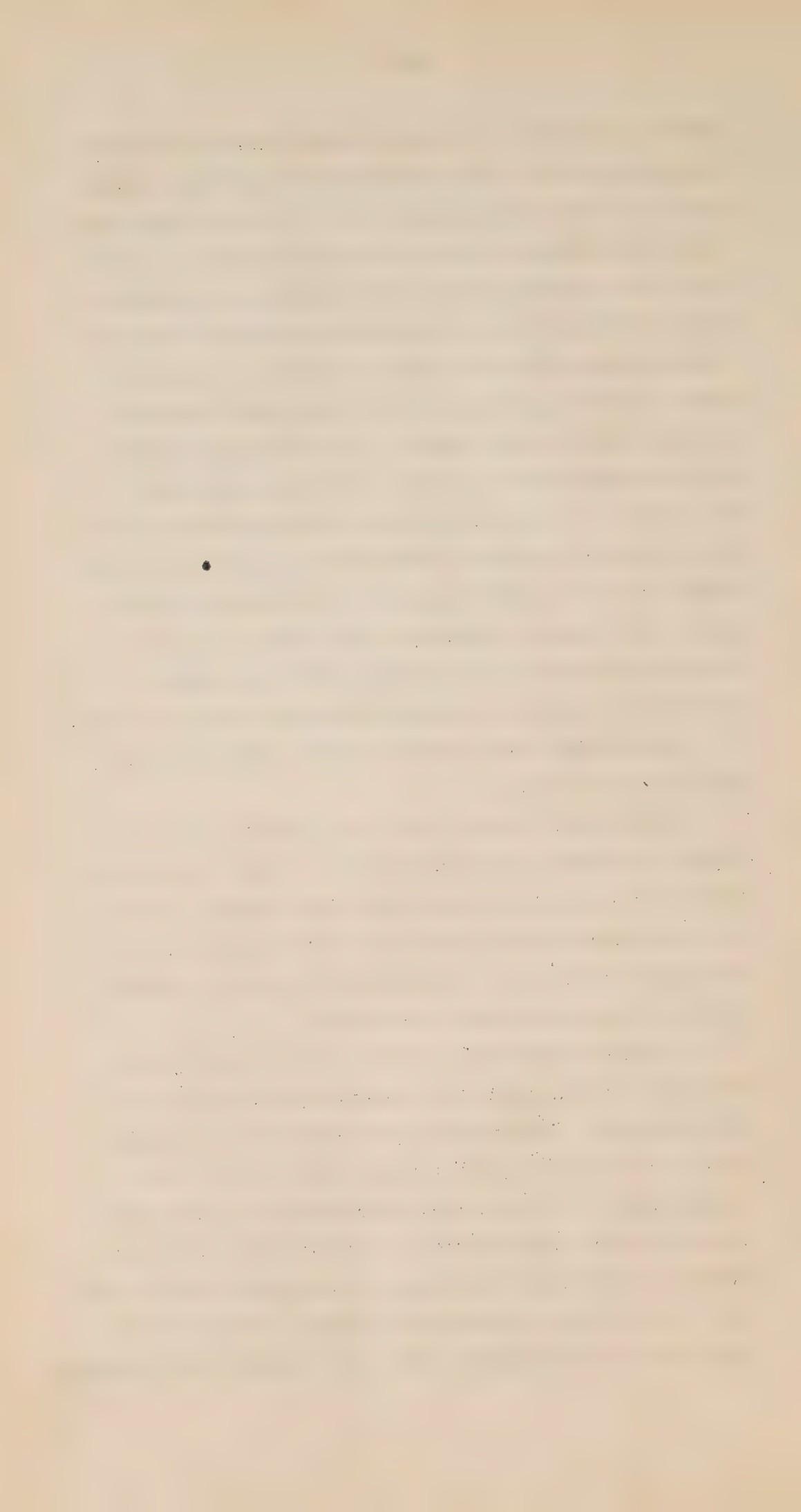
This provision meant that a certain amount of the revenue of the federal states was given to the central government; there was a certain danger of the governments of the federal states being unwilling to increase these grants if it was necessary, but if they did so, a very great power was given in that way for they could always force the central government to be more lenient to their wishes. They fought about the increase of grants between 1887 and the war and it has always been rather a difficult problem and a certain danger. From that point of view Bismarck had provided one safeguard. Whilst the main election in federal states, and municipalities was based upon the amount of taxes paid, there was manhood suffrage for the

central parliament in Berlin. The most radical universal suffrage prevailed then, and with that system of voting they had a very strong central body and could always play upon that instrument against the federal states. There was a most ingenious balance of tendencies and powers in that constitution and it worked generally quite well, but I might just mention one point. Of course the federal states, especially Prussia, had a very sound financial system, mainly for one reason: The railways in Germany, and the Prussian state railways were doing very well. The Bavarian railways had not only earned interest on the capital outlay but made a substantial net profit the exact amount of which I cannot remember. I may say that in the good years a certain amount was taken away to create a reserve fund against diminishing revenues in times of depression. Therefore Prussia's budget was always balanced.

THE CHAIRMAN: Our railway revenues have not had the same result in Canada.

MR.BRUENING: I know, there are special reasons. In Prussia the whole railway building was started by law and this general plan has really never been changed. It has been the model of all railway law. Our railways were never over-capitalized and that is the main reason they always get such a relatively high net revenue.

In 1917 the government of the Reich was quite clear about it that this system of finance could not be kept up after the war. The internal war debts were so enormous that it was the main point for the future to take away revenue from the federal states and to use it for paying the interest on those internal war debts and pensions for disabled soldiers, so that when the new system started after the War, they were starting from nothing. In the treasury since 1917 the new taxation laws had been worked out satisfac-



torily and everybody, even the Prussian people, realized the pre-war system could not be carried through as regards the financial situation. With the abdication of the Emperor and the Imperial family, and of most of the princely families of the federal states, the whole situation changed. The Weimar constitution, from the point of view of abstract theory cannot be considered in any way a good constitution, but as it turned out later on it was very flexible and it really gave the chance which was only discovered, strangely to us, since the beginning of 1930, to make any reform necessary for the future. There was no difficulty in making use of the emergency powers provided for in the Weimar constitution, but if these had been justly used they would have solved many difficulties under which we had suffered since the war.

The main point in the Weimar constitution as regards financial responsibilities was that the income tax and the sales tax, in addition to those taxes already reserved to the central government under the Bismarckian constitution that is to say, customs and excise, were now to be in the hands of the Central government and collected by the administration of the Central government. In addition to that, and I am only speaking about the taxation problem, the Central government had the right to lay down legislation as we call it, in principle, for those taxes which were reserved to the municipalities and the federal states. There was a change in the Weimar constitution in 1930 and I will say something about that later. In addition to the changes in the rights of taxation, the State railways were transferred to the Central government. At the same time the whole railway debts were taken over by the Central government, but it was Prussia who suffered a real diminution, permanently, of its revenue. We needed the

railways for paying a portion of our war debts and the whole of the net income from the German state railways was used to pay one part of the reparation, until 1930. In fact, the railways had no surplus afterwards for the support, either of the Central government or the federal states. The income tax was regulated by new laws on the part of the federal government; it was very largely increased. We had on an average an income tax rate of 8 per cent in the federal states, and under certain conditions that was increased. Now, we started with 10 per cent on the lowest income. Only incomes below ₦250 were exempt from income tax, and it increased from 1925 to about 50 per cent on the incomes of one and one half million marks. That is to say, about ₦325,000. Then, later on, in 1931, it was increased to 55 per cent. Of this income tax 75 per cent was transferred to the federal states and the federal states again passed on to the municipalities between fifty and fifty-five per cent of their share in the income tax.

MR. STEWART: Was that divided on a per capita basis?

DR. BRUENING: No, the income tax was divided in this way: Bavaria got 75 per cent, but of the income raised in Bavaria and distributed of this 75 per cent again, about 50 per cent went to the town of Munich of the income tax collected in Munich. There was another 25 per cent which was taken from a certain amount of the income tax which was not kept by the Reich; the rest was distributed to the different federal states. A certain amount of the income tax refunded to the federal states was used to support those federal states which were mainly agricultural, and therefore, had a very low revenue from the income tax. For instance, a country like Saxony, which is highly industrialized, had a very high revenue, and under article 35, some of its revenue was passed to the federal states which were mainly agricultural, to enable them to carry on in difficult times.

The sales tax became in the inflation period, and especially during the re-stabilization, and again in 1930 a main source of revenue and is to day the most stable source of revenue. In all times of declining prosperity you must try to find revenue from a stable source. The sales tax administration was a very complicated one. The Reich got the main share from the sales tax, and a share varying from 35% up to 40% was distributed to the federal states and refunded partly to the municipalities. The key was a very complicated one. It was mainly based upon the population of the federal states, and upon their refunding to the states and municipalities, also upon the population, and partly upon the local expenditure for poor relief, unemployment relief and so on. So most of it provided for a very high share, perhaps the greater share of all the revenue of the federal states and the municipalities. By choosing a different key for the distribution of the income tax and sales tax; so that the sales taxes were managed half by municipalities and half by states, the municipalities were so placed/^{that if} they were spending carefully and followed a sound policy they would not go bankrupt. We were forced to do that through a sense of compromise. The Weimar Assembly gave power to the Reich to lay down legislation in regard to taxes levied in the federal states and municipalities and the Reich gave up the guarantee at the same time to keep the federal states alive from the financial point of view.

MR. STEWART: That had regard to the means of the federal states?

DR. BRUENING: Yes. I do not think it is necessary to say anything about customs and excise. They were as in all countries very much increased and in 1930 and 1931 each new increase in excise led to decreased consumption

so that we had to reduce the rates of those excise taxes, to increase revenue, which is rather interesting from the theoretical point of view.

COMMISSIONER MACKAY: Was the revenue from the customs taxes and from the excise taxes retained entirely by the Reich?

DR. BRUENING: Yes, with the exception of the beer tax, but I will speak about that later. I may say that we got a certain amount of revenue from alcohol, but that tax was introduced before the war in Germany.

MR. STEWART: That involved a different key, did it?

DR. BRUENING: Yes. Perhaps I may say something. A very large and increasing part of the income was absorbed by the payment of reparations until 1931, and here is a point which I would like to mention very briefly, because it is largely responsible for special taxes which did not exist in other countries. We had to make our new system of taxation after the stabilization of currency so that we would meet each year the increased payment on reparations. Consequently we had to make our taxes 25 per cent higher than were needed. In the first year we had to provide for a stable revenue, say from 1927 on, to meet the increased minimum amount to be paid on reparation payments.

To return to the financial question, under the new situation I entered a new constitution. I may mention, of course, that there were a few other taxes which were purely reserved to the right of the Central government. There was a tax and very high taxes, on inheritance, different from the English system, as the number of children were taken into consideration. Therefore a family with a large number of children paid less than it would under the British system.

THE CHAIRMAN: Was the inheritance tax wholly a Reich tax?

DR. BRUENING: Absolutely.

THE CHAIRMAN: The states had no power, had they?

DR. BREUNING: No. They were prevented by a special article in the constitution from raising an inheritance tax. Generally speaking, the whole system, from the point of view of the federal states and the municipalities, worked fairly well. I have given the reason already in my first remarks, and the people during the time of the inflation and the first years afterwards did not realize the bad effect of the whole change in the system of taxation. The municipalities in the first two years after the inflation were very anxious not to spend very much, and this attitude changed only after 1925 or 1926. In 1925 and the beginning of 1926 conditions were very hard in Germany. Unemployment was high and, of course, the municipalities were eager to create public works and do away with a large part of the unemployment. In this respect they went rather far in 1925 and the beginning of 1926. This point was not realized either by the Reich or by the federal states or municipalities. Practically speaking, the fortunes of the middle classes were wiped out more or less by the inflation. The middle classes had been very strong in Germany and very important for taxation.

(Page 3677 follows)

The fact was that many people who formerly had quite a nice income and even people who were very wealthy and had invested all their capital in the war loans for patriotic reasons did not get back more than between eight and twelve per cent of their former wealth. The effect was that the municipalities and the central government had to provide by taxes for payment specially to the old people, and to maintain their poor people, which meant rather high expenditure in all the budgets except the budget of the federal states. Slowly, too, it was realized that every temporary gain by the inflation caused a permanent loss to public revenue, especially as all the funds collected and used as reserve funds of the different social security institutions since the 80's were also practically wiped out at least down to the average of 18 per cent of their normal values before inflation.

Again, the central government had to find money to help the old pensioned people and invalid institutions to carry on their functions and local duties.

The effect of all that was that more and more the main taxes in the municipalities were based upon rather a crude system of very old taxes. They were the land tax and the so-called business tax. The land tax had not been changed very much during the last 150 years. The land tax (of course I include in that the buildings on the land) under our system, means 95 per cent. The land owner is at the same time the owner of the buildings built upon the land. And the business tax was, if I may say so, a combination of a crude income tax and a tax upon the wages paid and a turnover tax. It was a very complicated tax, different in all federal states. From the point of view of social justice as well as of a refined system of taxation one could not say very much in favour of these taxes, but they had one advantage, they did not vary very much with

different economic conditions. They were crude and therefore gave a certain minimum revenue, even in the times of lasting or prolonged crises. But more and more the municipalities, as I mentioned, since 1926 started to spend more money than they should have spent, and when they could not find the money for paying for their buildings and public works by the creation of loans in the open market and in foreign countries, they had to raise taxes. Their only resort to taxation was to increase the land tax and this tax on business, if I may call it so. The German word accurately describes it. This had a disastrous effect in 1929 and 1930, the amount of these crude taxes to be paid by big and small businesses in nearly all municipalities in Germany was a real danger for the carrying on of the business altogether, and especially the retail trade and business men were complaining more and more and became absolutely radical in their political tendencies. And this was one of the main reasons for the start of those reforms during the two years I was in office.

So, I may summarize: The people who were elected to the town councils were, naturally, in the majority wage earners or civil servants and they, of course, could not raise the income tax as had been possible under the old system. They liked to spend and, therefore, as they had perhaps 30 or 35 per cent of all the votes in most of the municipalities, they were increasing, without realizing it, the whole level of public expenditure and putting the burden on people renting land or using land, or upon the businesses in the towns. And this really led to an acute situation in 1929. The fact was that in 1930, practically speaking, most of the federal states and municipalities were no longer able to carry on their budgets. As soon as the influx of foreign short-term and long-term money

ceased, and instead of that an eflux of foreign money started, there was certainly a contraction of the whole financial and economic situation in Germany. With the consequences that in three months' time all the municipalities and the federal states realized that their money policy led to a state of emergency or what I might call an imminent state of bankruptcy of federal business everywhere. And, therefore, at the lowest level of revenue, without any chance to have any loan in the open market which was practically impossible for us because of the reparations laws and not even able to obtain a loan from the central federal reserve bank, you would call it, to an extent of more than \$125 million, we had to change the whole system and adapt wages and salaries and everything else to this unique situation as a government had to do it in a time of crisis, where it has no chance to borrow in the open market or even to borrow for the last day (we call it the ultimo of the month) a very small sum to carry over from one month to the other, from the federal bank or with the other banks.

I will perhaps outline the main problem of these reforms, if I may, and it is better perhaps that I start now. I have already said that the whole tendency of the reform was to come back to the sound principles of the Bismarck Constitution and the old tradition of sound local and federal budgets which we have had, since the Napoleonic Wars every in Germany with the exception of one or two towns in Germany, in the 80's. I do not think, if it is not desired by you gentlemen, that I shall go into all the detailed complicated phases of this reform as, of course, you will realize that having no money in the treasury everywhere we had to adopt other reforms, to time these reforms to the financial possibility of each moment.

The main purpose of the reforms already published in the first major decree from the first of December, 1930, was, first of all, to put a limit to further reckless borrowing on the part of the municipalities. The second point was to limit the expenses of the central government of the federal states and of the municipalities by the first article of that first major decree of the 1st., December, 1930. That meant to say that the Reich, laid down a law, in this decree for the next three years to come that the expenditures of the Reich could never be more in these three years than 10 billion marks. And it laid down the principles, not with the actual, exact figures, but taking the average of the expenditure and the revenue of the federal states and municipalities for the last two years and estimating what would be the taxes necessary for 1931 and 1932, and taking the average from that, limiting the whole expenditure to that sum and not allowing any federal state government or any municipality to spend more than the limit laid down in that decree.

I might mention here, that the Weimar constitution provided an opportunity for the president to rule by decree in certain circumstances. This rule by decree, of course, was to introduce a lot of legislation and have parliament treat it in the normal way, perhaps using eight months to pass such a big legislation; the parliament had now the chance under the system of decrees only to say, yes or no. But, of course, if you had not a safe majority of the parliament, and if the parliament was not really consenting to such a rule of decree they could, after they had accepted such a presidential decree, introduce the following day detailed legislation to change the whole presidential decree in all details and the president had to

accept it or to dissolve the Reichstag and then it would end in a plebiscite, about the struggle between the president and the parliament.

It was necessary to accustom all the public institutions to a situation in which, for the next years to come, they should look after, as we say, each penny of the revenue and expenditure. At the same time we forced them, just as we did in the Reich, to cut down the size of their civil service and to introduce two new taxes and connect the raising of these taxes with those taxes left to the municipalities which I mentioned before; the land tax and the business tax.

The two taxes introduced for that purpose were, first, the so-called head tax. We called it a special tax which everybody had to pay unless he had been unemployed for a long time and it was a progressive tax but not a very important one. It started at six marks per head of the population and increased to about 1500 marks for the people who had a very large income. This was outside the income tax and reserved absolutely to the municipalities. Each municipality could raise as much per cent of that income tax as it liked--200, 300, 400, 700, 1,000, per cent of that original tax. And secondly, we introduced a special tax on all beverages, tea, coffee, cocoa, all kinds of beer and wine, champagne, brandy and what have you, and so on, if I forgot one. This was also a flexible tax. By decree, then, we stated, as the burden of the land tax and the tax on business was too high, and was really killing agriculture and the business people, that for the next year to come, these taxes everywhere had to be decreased by 10 per cent in the federal states and municipal-

ties. Then, we made use of that article in the Weimar Constitution providing that the central government had the right to introduce legislation to define principles for all the taxes which were reserved for the federal states and municipalities. And we introduced general rules for assessing the people for these taxes for valuating the property and for collecting these taxes. Then, by that decree we laid down also the principle that in future the business tax and the land tax should be collected by the same administrative institution which collected the sales tax and the income tax for the government. In that way we were able, for the first time, to watch very carefully from one institution in each town the whole amount of taxes to be paid by each citizen, and to make it clear on--I do not know what you call that--the letter, the paper, which is sent to the taxpayer.

COMMISSIONER ANGUS: The assessment?

DR. BRUENING: The assessment. And now make it quite clear on that assessment to every citizen what they had to pay for the Reich, what they had to pay to the federal states and what they had to pay to the municipalities. So, for the future everybody knew by this letter which he got from the tax office for what purpose he was really paying his taxes.

MR. STEWART: By the way, was the head tax also collected by the same authority?

DR. BRUENING: Yes. So in one year the principle was laid down actually--

COMMISSIONER ANGUS: That is, the one authority collected all taxes?

DR. BRUENING: Collected by one taxation, practically speaking. Now, the main point was this: after we had laid down an upper limit for this business tax and property,

land tax and business, we said "If those taxes had gone over a certain average in certain municipalities and federal states, they are forced to raise the tax on beverages and the head tax above a certain limit." That means to say, we connected for the future the rise of land tax and business tax always at the same time with an automatic rise of the tax on beverages and head tax. So, it was made impossible for the future that say, a town council which was in the majority elected by wage earners and salary earners should just recklessly spend because it was able to put the burden on the owners of property and business, if it increased for the future the expenditure of the municipal council (or if the federal states increased their expenditures) and had to find new revenue, it had to find that revenue in equal taxes from the business, from the land, from the house owners and from their own people by increasing the head tax and the tax on beverages, as well. In that way we came back to create public responsibilities. I do not go into detail, your Honour, perhaps that could be left to the questions.

THE CHAIRMAN: Yes, quite. That covers one of the points that has been presented to us about the taxes being raised on real estate by an electorate, the majority of whom, or the substantial part of whom, are not real estate owners.

DR. BRUENING: Yes. And then we made one big change again, we renounced any participation in the income tax on all agricultural incomes below 6,000 marks, but we forced the rural communities to introduce the head tax as well. The rural communities, of course, were suffering very much. You had, say, a thoroughly rural community originally at a distance of ten miles from an industrial centre; more and more workmen settled in these rural

communities, had their own houses, or houses were built for them, slowly they started to grow and were rather inclined to put the whole burden of taxation, which was the consequence of their settling in these rural communities, upon the farmers who were killed by that. So we did away with the income tax for all purely agricultural incomes below 6,000 marks and introduced single taxation, I think that is the word for it. All the farmers with an income of less than 6,000 marks paid only the new and reformed land tax, but the land tax could not be raised in a rural community without raising at the same time the head tax and the tax on beverages. So, if by chance the balance between the farmers and the other people in a rural community was changed, the newcomers, the new citizens, could not raise the land tax alone. If they raised the land tax they were forced also to raise the taxes which affected them. That simplified the matter very much.

We renounced also the tax on sales, on turnovers, all under 6,000 marks. That meant in one stroke we did away with the assessment of perhaps one third of the whole population and saved a lot of money and administration and made the whole system of taxation again understood by the average citizen.

Now, I do not think I have to say anything more than just a few remarks. After that had been introduced we went a step further, in the administrative reform of the federal states, and of the municipalities, to save money, to make them more efficient, to make them more simple, to carry back to our best tradition, which we had in the 19th century, in administration. There was a presidential decree published in August, 1931, called Fir-unzauratz Decree, which gave the federal governments the

power to rearrange their whole administration. For the purpose of making it simpler and to save money, we made it possible, for the administration without having to ask their parliaments, to issue decrees for the reform of the administration and to adjust expenses to possible revenue, in one law, just the same as the decrees by the Reich. And then this law provided the same power for the mayors in the towns, and in the rural communities. Of course, that was limited in form. So the whole system of reform of the administration and adaption of the system to the new needs created by the crisis and all the difficulties which I have mentioned, and the new system of taxation and revenue could be managed in practice by the authority of the president, delegated for the purpose of the federal states to the federal states and for the purpose of the municipal reforms to the mayors of the municipalities or the rural communities. That whole work was practically to be finished in July, 1932, and everything had been adopted practically speaking. Even under the new regime nothing has been changed in this provision under the Weimar Constitution. In addition to that, by reason of the fact that it was flexible, that it did contain many contradictions between different articles, it was also possible to reorganize the whole federal system. Our main idea was to separate Prussia into its main provinces, to do away with the unity of the state that had three-fifths of the whole population, to take away the administration of justice and the police administration from the federal states, and invest it with the Reich Government but leave to the federal states everything else which they formerly had. Under the Weimar Constitution, with a new federal state formed out of a former Prussian province that could be done all right.

This first major decree contained three printed lines which set out to settle this business with the Reichstag, the federal chamber, and to leave out for that purpose as regards the financial basis the Reichsrat (or Federal Council) altogether. If we could not have come to any agreement with the federal chamber, we would then have been able to rely on the decree. The decree could not be vetoed by the federal chamber, but could be vetoed by the Reichstag as I mentioned. In the Reichstag we got a majority for all these purposes and this allowed us, in a very easy way, to make use of different articles of the constitution, really, to lay down all the main principles. As you know at present in theory, the federal states exist no longer, but the only practical reorganization really made was the transfer of the police and the administration of justice from the federal states to the Reich Government, which was provided for mainly in these reforms. In other respects:--There are still prime ministers in the federal states, just as there were before, and other ministers, and there has been a simplification of the whole administration.

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MR. STEWART: Was there any restriction of borrowing imposed?

DR. BRUENING: Yes, first of all there was a practical restriction, nobody could borrow. So far as the federal states are concerned, they had no laws by themselves to restrict borrowing by their municipalities. But by a provision in the decree it could be made impossible for the municipalities and federal states to borrow.

MR. STEWART: Those restrictions were imposed not only upon the municipalities but also upon the federal states?

DR. BRUENING: Yes, we could do that at any time.

MR. STEWART: Was there any board to which the municipalities or the federal states could go for permission to borrow?

DR. BRUENING: Yes, there was what we call the District Commissioner, a very high civil servant. Of course the District Commissioner formerly had the right to object to any new borrowing, that was in Prussia. The Commissioner could report this to the Prussian Minister of Finance and he had always the right to prevent municipalities from borrowing. Of course, under the Finanzausratz decree which I mentioned, the federal states introduced Commissioners for all towns which were unable to bring their finances back to a sound condition. It hurt the pride of the municipalities very much, if such commissioners were appointed for their town by the federal state, so they brought their financial condition into order as quickly as possible. They found ways of saving money and simplifying their administration in order to avoid the very great humiliation of having a commissioner appointed.

MR. STEWART: Now, in the administration of the tax laws, were there local advisory committees?

DR. BRUENING: Yes, for the income taxes there were

local advisory committees.

MR. STEWART: In each municipality?

DR. BRUENING: Yes; of course, not in the small communities. These advisory committees were what might be called tax collection offices. In the cantons--using the French word for a district--these people were generally acquainted with the local needs and the economic situation of the smaller businesses. Then, they were used for the valuing of land and property for taxation by the Reich. Since about 1925 we have had an absolutely new law concerning the taxation on houses and property. It was drafted from experience collected over about 150 years in land valuation. This was carried out in detail by a special department in each canton where we revalued all property according to this new basis. This was quite a new feature. Those local and federal taxes on property were a new feature enacted by this first major decree. This forced, for the first time, the federal states to reject the principle of -- I would not like to use the words "hiding the facts", but it was something like that. They always liked to keep their own tax laws very complicated so that after collecting these taxes, they could turn to the Reich and say they could not possibly exist on that amount. Previously, under article so-and-so of the Constitution they had a right to get a higher grant from the federal government. By this decree, however, all that was finished forever and it was put on a clear basis which all the citizens of Germany could understand.

MR. STEWART: This system of taxes which was worked out by the decree of 1920, still remains in force?

DR. BRUENING: Yes, it has been changed in many details but in the main it is still in force.

MR. STEWART: What is the system by which lands were assessed in Germany?

DR. BRUENING: I will try to come to that in a very short time. Until 1925, it was not possible to introduce a new system as quickly as we thought, so that it was practically 1929 before it really began to operate. Since time immemorial, the practice had been as follows: Taking a farm of one hundred acres, there would perhaps be one plot especially good for wheat, then one of lower-grade soil for rye or barley and one for pasture. Each plot of three or five acres was mentioned in the community roll and was classified in it. We have eight classes based upon the net revenue in normal times which can be expected from these plots. Now, in 1925, they made a new law which was based upon the experience gained in assessment and valuation, gained during the last three generations. We had a class based upon the individual land valuations of each farm and the general classification of the land, all over the country. There was one type of farm which was in class one. This was a farm with the best soil in Germany, mainly for the growing of wheat and sugar beets, but having at the same time, the possibility of raising very fine cattle. Now, in each province the best farm was used as a basis of comparison with the other farms. The people in the tax administration of the agricultural department together with the gentlemen from these cantons, or districts, went through each province assessing or valuing these farms in comparison with the best farm in that province. This was carried on rather roughly, as they had to take into consideration the situation of the farms, the cost of transportation, the nearness to a town, and the possibility of increased value through the saleability of the land. If the town was expanding this ground which was formerly used for agricultural purposes developed the possibility of being used for building purposes. Where there was a possibility of it being used for building purposes it was no longer taxed.

under the agricultural tax system, it was taxed upon its possible value for building. In future the land tax had to be based upon this policy of valuation.

MR. STEWART: I suppose these tax reforms were gradually worked out; they could not be arrived at overnight?

DR. BRUENING: Oh yes, it was gradual.

MR. STEWART: Now, could you give us some statement as to the division of jurisdiction between the Reich and the federal states under the constitution?

DR. BRUENING: In the Weimar Constitution, I will have to distinguish between legislation in the principle and actual legislation. Income taxes were introduced by the central government and passed by the parliament in all details, but there were other branches of taxation upon which the central government could only lay down broad principles. The application of these principles were left to the federal states.

COMMISSIONER ANGUS: Is that what they sometimes call normative legislation?

DR. BRUENING: Yes, that is what it is.

THE CHAIRMAN: Are there any other federal states where that same principle applies?

DR. BRUENING: Yes, it is the same, for instance, in Austria, to a certain extent. I think the same may also be said of Switzerland, but of course their situation is very different because of the different types of plebiscite which they have. We have introduced this normative legislation to a great extent under the Weimar Constitution. For instance, some of the main points were given in Article 10 of the Constitution--I do not know if you have that in English.

THE CHAIRMAN: Would you mind reading that Article to us with regard to the normative legislation as it is dealt with there, Mr. Stewart?

MR. STEWART: I quote from page 178 of the book entitled "New Constitutions of Europe": I am reading Article 10, which is as follows:

- "The Reich may by law prescribe fundamental principles with respect to,
1. Rights and duties of religious associations.
 2. Education, including higher education and scientific libraries.
 3. Rights of officials of all public bodies.
 4. Land titles, land distribution, land colonization; and homesteads, entail, housing and distribution of the population.
 5. Disposition of the dead.

Article II. Insofar as is necessary the Reich may by law prescribe fundamental principles with respect to the imposition and collection of state taxes in order to safeguard commercial interests, or in order to prevent:

1. Prejudice to the national revenues or the commercial relations of the Reich.
2. Double taxation.
3. Levies on public communications or institutions which are excessive or which interfere with communications.
4. Discriminatory taxes upon imported goods as against domestic products in interstate or local commerce.
5. Export premiums.

THE CHAIRMAN: Article 11 seems to cover a number of points which have been discussed before us by various representatives.

COMMISSIONER MACKAY: What articles are those, Mr. Stewart?

MR. STEWART: Articles 10 and 11 of the Weimar Constitution.

DR. BRUENING: May I point out that a part of Article 12 gives the Reich the power of veto on all laws which are passed by the federal states and which might infringe upon special branches of legislation reserved for the Reich.

COMMISSIONER MACKAY: That was in lieu of judicial review, I suppose? I suppose it was to provide a substitute for judicial review.

DR. BRUENING: Yes, and of course, Article 13 contains a very important provision. I do not know how it is translated.

MR. STEWART: "National laws are superior to the laws of the states."

DR. BRUENING: Yes, that is it. It is the reverse of the policy under the Bismarckian Constitution which held to the principle of the supremacy of legislative power of the states. This new principle stabilized the supremacy of the legislative power of the central government.

COMMISSIONER DAFOE:: It was a complete change from the Bismarckian constitution.

THE CHAIRMAN: Under the Bismarckian constitution state legislation was superior and under the Weimar constitution Reich legislation prevailed in the case of a conflict.

DR. BRUENING: Yes, I might say that I would like to summarize things a little and make them as short as possible. The Bismarckian constitution was a pact between the federal states, formerly partly independent, and it was afterwards adopted in the form of a constitution by the central power. However, it originated as an understanding between the central government and the provinces.

COMMISSIONER SIROIS: Was that agreement arrived at in 1871?

DR. BRUENING: Yes.

THE CHAIRMAN: What do you consider to be the advantages or the disadvantages of this normative legislation?

DR. BRUENING: Well, I think the power of normative legislation, is, in our time, a very important one. Every thing is growing more complicated, our economic condition and such things are all growing more complicated. I am afraid that the Weimar constitution in laying down these principles was rather vague and at times ambiguous. This was of very great importance. For instance, the detailed administration of the universities, which in Germany were, practically speaking, all state universities was left to the federal states. This was a guarantee of life to the old established universities. Of course, it was quite simple to operate. For instance, if a federal state did not, by itself, have a certain minimum requirement demand for passing the examinations, we would impose this to aid in bringing them into conformity with other universities.

Now, as regards religious education in the schools. The Reich government always wanted to introduce a law which would interpret in detail this part of the article in the constitution. We had to be very careful in doing that. We were rather inclined to leave that as far as possible, to the federal states to legislate upon. We did not want to infringe too much, but desired to keep strictly to general principles as it was laid down in the constitution. It was laid down (in this constitution) that the parents had the right to decide about their children's religious education. There was, therefore, a parents' council in each parish, and every four years we have an election on the part of the parents to decide about this matter. Of course, these schools were supported by a tax collected by the government, but we left the educational

details to other bodies. We always tried to avoid infringement upon the rights of the federal states. I think it is necessary under modern conditions to give a central government the right of normative legislation. Of course, there must be some limitation to this as there is always a danger in too much centralization.

COMMISSIONER ANGUS: Would it be interrupting to ask how such normative legislation could be made effective or enforced?

DR. BRUENING: Well, let me take, for instance, Article 10, Section 3; "The rights of officials of all public bodies". This laid down general rules for the nomination of public servants for life. It established their rights to pensions and defined their rights under the existing administration. For instance, before this constitution the qualification record of a civil servant was kept by his superior in the administration, and in 1919 a civil servant did not have the right to look into these qualification records. If he had a superior who did not like him for personal reasons, his superior could put down some remarks about the manner in which he fulfilled his duties which would do him harm forever. Then we introduced the principle that under certain conditions a civil servant of a public body had the right to look into these qualification records. Of course, we did not say in detail into which salary class these men should belong.

COMMISSIONER ANGUS: Did that mean that the states had to pass legislation giving effect to the normative legislation.

DR. BRUENING: Yes; any details they had to carry them out. We passed the legislation, in general principles and they carried into effect the details. As you are aware, that is the good old system of legislation which we had for nearly one hundred years. We are rather hesitant to

to pass laws with too many details. Our old system of legislation was to leave it to the administration to carry out the details. We wanted it flexible to meet individual needs but gave parliament control over the administration.

COMMISSIONER SIROIS: That would be the French system?

DR. BRUENING: Yes, we learned very much from their system during the early twenties of the nineteenth century.

COMMISSIONER DAFOE: If the federal states pass laws which infringe upon the rights of the central government, did the central government resort to its veto power?

DR. BRUENING: Yes, we could do that, and if the federal states believed that their powers had been infringed, they have a right to go to a special part of the supreme court called the Staatsgerichtung. It had the power to condemn or reject any law passed by the central government which it felt might be an infringement upon the constitutional rights of the federal states.

COMMISSIONER ANGUS: Could administrative officials go to court to complain if a federal state had not passed the necessary legislation giving effect to the normative legislation.

DR. BRUENING: You mean to say--?

COMMISSIONER ANGUS: I mean an official of the State might wish to take advantage of this normative legislation.

DR. BRUENING: Oh, I see, a civil servant, you mean?

COMMISSIONER ANGUS: Yes, a civil servant. Supposing the federal state had not passed the necessary detailed legislation, could he go to the court?

DR. BRUENING: Yes, he could go to the court, not to the Staatsgerichtung, but he could go to what is called Verwaltungsgericht which was given jurisdiction in this matter a long time ago.

COMMISSIONER ANGUS: Was it possible to compel the

State to make regulations?

DR. BRUENING: Yes, the Reich, had the right under the constitution to enforce it, even to the extent of using military power. This happened once, I think, in 1933 in Saxony. It is generally sufficient to make a threat to the federal states. For the most part they did their best to comply.

COMMISSIONER MacKAY: You have mentioned one or two examples where this system of normative legislation was not applied.

DR. BRUENING: No, for instance, this Section I of Article 10.

MR. STEWART: "Rights and duties of religious Associations".

DR. BRUENING: We did not make use of that, it was not necessary. Then number 2, we did not make use of that. We always wanted to have a law concerning the principle of religious education passed by the Reichstag, but we never did have it passed. Point four, "Land titles, land distribution--", we went very far in that connection.

COMMISSIONER MacKAY: You go into the field of taxation in these decrees?

DR. BRUENING: Yes, but presidential decrees, of course can do away with most Articles of the constitution except those dealing with the rights of citizens. Under Article 48, there is the power given to suspend a great many of the Articles. The major part of these are the rights of citizens which are generally considered under the heading of "Bill of Rights". The president could suspend them, but he could not do it for any length of time.

COMMISSIONER MacKAY: The power of normative legislation did not apply to the executive, it was simply a legislative power, was it not?

DR. BRUENING: Yes.

MR. STEWART: We have a statute passed under Article 11, under the special heading of taxation.

DR. BRUENING: Yes.

MR. STEWART: It refers to double taxation?

DR. BRUENING: Yes, but we did away with that.

MR. STEWART: You prevented it?

DR. BRUENING: Yes.

MR. STEWART: Now, as to the general distribution of legislative power, Article 6 of the Weimar Constitution gives to the Reich exclusive jurisdiction over certain things, does it not?

DR. BRUENING: Yes.

MR. STEWART: Foreign relations?

DR. BRUENING: Yes.

MR. STEWART: Colonies?

DR. BRUENING: Yes.

MR. STEWART: Citizenship?

DR. BRUENING: Yes.

MR. STEWART: Freedom of movement, immigration, and emigration extradition?

DR. BRUENING: Yes.

MR. STEWART: National defence, currency, customs, including uniformity in customs in commercial districts, and the free transit of goods, posts and telegraphs, including telephones?

DR. BRUENING: Yes.

THE CHAIRMAN: Mr. Stewart, just before you pass from that, what is meant by the phrase, "freedom of movement"?

DR. BRUENING: It meant that a person was able to leave one town and go to another town.

THE CHAIRMAN: In any part of Germany?

DR. BRUENING: In any part of Germany.

THE CHAIRMAN: One state could not interfere with the freedom of movement of citizens to another state?

DR. BRUENING: No. It became a great problem in time of agricultural crises, as the people from the farms flocked into the big towns trying to find some work. After a time they had to go on relief at the expense of the big towns. This was set right, and it was very doubtful if we could change this for a short time, even by decree because of Article 48. However, since that time the government has changed it . to prevent this flocking into towns and trying to find work. It is now necessary to have a special permit from the authorities of the town to which you are going if you desire to try and find work there.

THE CHAIRMAN: Perhaps I did not put my question accurately, but the central government has jurisdiction over the question of "freedom of movement" of citizens, from one part of Germany to the other.

DR. BRUENING: Yes.

MR. STEWART: Now, Article 7 confers upon the Reich powers of legislation which are not exclusive, is that not correct?

DR. BRUENING: These articles number 6 and 7 are rather peculiar. The legislation, or a large part of it, which is defined under Article 7 has always been within the powers of the central government. For instance, the civil law and penal code. In the case of Section 3, we have been putting that into effect through the powers of the Reich. This means that we have three kinds of legislation, one where the legislative powers of the central government are not to be contested in any way, the second, which is reserved in general for the federal state and then you have those in Article 7.

MR. STEWART: The items in Article 12 refer to the power contained in Article 7, very largely?

DR. BRUENING: Yes.

MR. STEWART: Insofar as the federal states can pass laws in relation to the subjects mentioned in Article 7?

DR. BRUENING: Yes.

MR. STEWART: So long as the Reich has not made use of its powers?

DR. BRUENING: Yes, for instance, number 3, of Article 7, we have made very little use of that. In this way it simplifies the whole administration and does not go into too much detail.

MR. STEWART: What we obviously refer to as concurrent jurisdiction. Probably it might be of assistance if I read the list "Civil law, Criminal law, Judicial procedure, including the execution of justice, as well as official assistance by one public authority to another; passports and police supervision of aliens, poor relief and vagrancy, the press, the right of association, the right of assembly; problems of population, and protection of maternity, infancy, childhood, and adolescence; public health, veterinary regulations, and protection of plants against disease or injury; the right to work, insurance and protection of workers and other employees and employment exchanges; the organization of professional associations extending over the Reich; the care of discharged soldiers and their dependents; the law of expropriation; socialization of natural resources and of economic undertakings, as well as the manufacture, production, distribution, and price fixing of economic goods destined for public use; commerce, weights, and measures; the issue of paper money; banking; stock, and produce exchanges; commerce and foodstuffs and food luxuries as well as in commodities of daily use; industry and mining; insurance; maritime commerce; deep sea and coast fisheries; railways; internal navigation, motor traffic by land sea and air and the construction of roads for general traffic and national defence; theaters

and cinematographs."

THE CHAIRMAN: That is rather a long list.

COMMISSIONER MacKAY: What Article is that, Mr. Stewart?

MR. STEWART: It is Article number seven. I think it is necessary to refer to Article 12. So long as the Reich does not make use of its power of legislation the state shall retain its right of legislation. This does not refer to the power of legislation which is exclusively given to the Reich. It would apply to Article 7 and not Article 6, those are the exclusive powers.

DR. BRUENING: Yes those are exclusive.

MR. STEWART: In dealing with specific topics in this list, Dr. Bruening, would you tell us what has been done under the power of regulation concerning health?

THE CHAIRMAN: By the State or the Reich or both?

DR. BRUENING: We have an administrative body, also existing under the Bismarckian constitution, which was very largely responsible for taking measures in order to avoid epidemics, for instance. You mean, of course Section 8 of Article 7?

MR. STEWART: Yes.

DR. BRUENING: We also have a law laying down certain principles for the betterment of our veterinary service, the protection of plants against disease or injury as well as other things in that connection.

MR. STEWART: Had the States passed any laws relating to these subjects?

DR. BRUENING: Yes, administrative legislation, to carry out these main principles laid down in the Reich legislation.

COMMISSIONER ANGUS: Might I amplify that, if the Reich is dealing with some disease, it would still be open for the states to deal with some other disease.

DR. BRUENING: Oh yes, very often we like to wait while the federal states are experimenting with some new line to see how these experiments turn out. Then, we might introduce Reich legislation to make that effective over the whole country.

THE CHAIRMAN: Did you have, under the Bismarckian constitution, health insurance?

DR. BRUENING: Yes, but all those social institutions I have not yet spoken about. All social security legislation has, from the very beginning, been in the hands of the Reich?

THE CHAIRMAN: Which legislative body passes the laws in relation to trade disputes, between employer and employee?

DR. BRUENING: The Reich.

THE CHAIRMAN: All questions relating to industrial disputes are in the hands of the Reich?

DR. BRUENING: Yes.

THE CHAIRMAN: That has been so since the Bismarckian constitution.

DR. BRUENING: No it was only covered in detail under the Weimar constitution.

MR. STEWART: Minimum wage laws, have they been in the hands of the Reich?

DR. BRUENING: We never dealt with that.

MR. STEWART: Marketing laws, the regulation of prices?

DR. BRUENING: Yes, we have done that. We have a milk marketing system which we have introduced by decree. We could have done it by Reich law.

MR. STEWART: To what extent has that power been used under the Weimar constitution?

DR. BRUENING: We introduced the milk marketing board which still is in existence. Then, of course, we have the power under the Reich by way of normal legislation to introduce a law for the standardization of agricultural products. However, in order to do it more quickly, we introduced it by decree.

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AFTERNOON SESSION

The Commission resumed at 2.30 P.M.

THE CHAIRMAN: All right, Mr. Stewart.

MR. STEWART: Just before lunch, Doctor, we were dealing with two or three specific subjects of legislation, and we had touched on health legislation, trade disputes, minimum wages, marketing, and price control. There is another subject, housing. How is that?

DR. BRUENING: I will speak first on the financial part of the housing problem, and state that with the help of public funds it was regulated by the laws of the Reich, and the federal states can pay as they like, but the major portion of the whole housing in those years have been done with the help of Reich subsidies. Workmen's dwellings, the size of the house most suitable and the type of house for which the Reich was prepared to give financial aid were prescribed.

MR. STEWART: By the Reich laws?

DR. BRUENING: Yes.

MR. STEWART: And the financial subsidies for such housing was provided by the Reich?

DR. BRUENING: It was originally provided for by the Reich. The Reich had introduced in the budget a certain sum, but the major portion of all these subsidies came from a special tax. This tax, was a tax which you could have only after total depreciation of the currency. If a house owner had a mortgage on his house to the extent of 60 per cent, the value of the house rose enormously at the end of the inflation, and was without debts. There was an increase in the householder's wealth and therefore we were taxing what we regarded as an unearned increase of wealth. Fifty per cent of the revenue from these taxes was used for the federal states and municipalities for general financial purposes, and fifty per cent was

used by the Reich until 1931, when there was a change for housing purposes.

THE CHAIRMAN: Of course, Dr. Bruening, that method of raising money for housing in your case did apply because of the inflation?

DR. BRUENING: Yes.

THE CHAIRMAN: And the resulting increment in value of the owners real estate?

DR. BRUENING: Yes, except in two federal states in the south. The farmers got rich at the expense of the mortgagees during the inflation, and did not have to pay their taxes. It was only a tax for urban property, and there was only a revaluation of the mortgages to a maximum of 25 per cent.

THE CHAIRMAN: I suppose the farmers did not object to that?

DR. BRUENING: No.

MR. STEWART: I notice article 14 of the Weimar constitution provides national laws shall be executed by the authorities of the states, insofar as the national laws do not otherwise provide?

DR. BRUENING: Yes.

MR. STEWART: How did you find that provision worked out in practice, Dr. Bruening? That seems to be a severance of the legislative from the administrative?

DR. BRUENING: You must realize our whole system in Germany is different from the English system. That is, the administrative was always separate, and I may say that the administration had a greater power. We had the home office communicating directly with the mayors of the towns. There were provincial administrative institutions which were interposed between the ministry and the mayors of big towns, or the district commissioners for the rural areas, and therefore, the general idea was, as it was before

the war that laws passed which were relating to any form of administration, over which the Reich itself had no administrative institution, were carried out by the administrative institutions of the federal states. You asked me here, that is another emergency measure. For instance, the tax laws as you remember, were after that decree practically carried out altogether by the Reich administration. There was practically no tax administration of the municipalities and the federal state left. The social security administration was left to local administration. If the Reich passed a law say about the marketing boards, that law had to be carried out by the administration of the federal state, because the Reich government had no administrative bodies, they would get their instructions from the Reich administrator.

THE CHAIRMAN: I suppose it would be somewhat similar to our criminal law?

MR. STEWART: Yes.

THE CHAIRMAN: Which is passed by the federal parliament which has jurisdiction under the Act over criminal law, but the administration of justice including the criminal law is by the provinces?

MR. STEWART: We saw a phase of it in the Fisheries department yesterday.

THE CHAIRMAN: You mention certain laws dealing with labour, but you do not mention the hours of labour. Has there been any legislation, or will you come to that later?

MR. STEWART: I did not have that on my notes, Mr. Chairman.

THE CHAIRMAN: I was wondering whether you had any legislation in Germany as to the hours of labour, and if so was it legislation of the Reich or the states?

DR. BRUENING: We had legislation introduced and embodying the Washington agreements, and the national labour

office in Geneva.

Our law limits the total number of hours of work for a year for every workman, and the law left the arranging of the details to the ministries in the federal states. A somewhat similar system is in effect in France, where the prefect has the right to adopt it for his own department following the local needs.

COMMISSIONER MCKAY: You say, apply it in detail. Do you mean, Dr. Brüning, there can be differences in the hours of labour in the same industry in different parts of the country?

DR. BRUENING: Not in the total number of hours per year.

COMMISSIONER MCKAY: But in the number of hours per day, week or month?

DR. BRUE ING: Yes. Take the export industry in Germany, that was an old struggle. Our export industry very often was only able to compete with other countries because of quicker delivery. They had to consult first their council of workmen in each manufacturing industry; then they had to apply for a mediator who was appointed for all provinces and states for discussions between employees and employers. He was an impartial man appointed by the government, but he could give his consent to the workmen's council; then they could work 54 hours per week instead of 48. However, at the end of the year they were penalized if they had more working hours than the maximum under the statute. It gave a certain flexibility for certain industries under certain conditions. That happens in the whole European legislation in some way or other.

MR. STEWART: That is characteristic of the European legislation, is it?

DR. BRUENING: Yes.

MR. STEWART: Have you a regulation as to the weekly

day of rest?

DR. BRUENING: That is a very old one.

MR. STEWART: That is the Reich?

DR. BRUENING: Always. You mean rest on Sundays?

MR. STEWART: Yes, or if it cannot be Sunday, for some reason or other than another day of the week?

DR. BRUENING: Yes. I might also mention that for a few Sundays the shops are allowed to remain open, and it is regulated by the Reich Minister of Labour how many Sundays a store shall be kept open, and under what extraordinary conditions people may be served in shops on Sundays. My recollection is that they allow six or seven Sundays in a year, but it is left to the federal states' government to say what Sundays. Some people prefer to have three or four Sundays before Christmas, and other at another time. It all depends on local customs. The carrying out of the details is left to the federal states.

MR. STEWART: You state the limitation of the hours of labour was pursuant to the Washington Convention?

DR. BRUENING: Yes.

MR. STEWART: Was the weekly day of rest pursuant to that?

DR. BRUENING: No.

COMMISSIONER SIRDOIS: It was very old, it went back to the days of Bismarck.

DR. BRUENING: Yes.

THE CHAIRMAN: Did Germany implement the convention of minimum wages, and international labour offices?

DR. BRUENING: No, our Labour Trade Union people were always against the minimum wage because they had found out in former times in certain parts of Germany minimum wages in practice became actual wages. They did not like it.

MR. STEWART: Can you tell us something about the method of handling unemployment relief in Germany?

DR. BRUENING: We had been experimenting and trying to rearrange ourselves to changed conditions, reparations and so on. Originally unemployment relief before the war was mainly a function of the municipalities. It was partly on the basis of poor relief. This was changed afterwards, absolutely, and we had a system where the Reich government and the federal states were giving the municipalities a certain amount in subsidies to pay for the cost of unemployment relief. Then in 1927 we introduced unemployment insurance. As that was outwardly a very prosperous year unfortunately most of the people lost their heads, and thought the time was ideal to introduce unemployment insurance, even to put by a certain fund. Then when the crisis came it was shown very soon that unemployment insurance could not be carried out indefinitely, but they were getting it for six months and then in order to save the financial basis of the social security institution, people were only under unemployment insurance for six months. Then we got a second system - after these twelve weeks the means' test came. The benefits were paid roughly as follows: One third by the municipalities, one third by the federal state and one third by the Reich, and after another thirty weeks or more that then dropped altogether, and they came back to the municipalities, which had to support them for the rest of the period.

THE CHAIRMAN: Has that continued to the present day?

DR. BRUENING: Yes, it has not changed very much. The funds for unemployment insurance are, as everywhere, partly raised by the workmen and partly by the employers.

THE CHAIRMAN: And partly from the government?

DR. BRUENING: A very small amount. In 1927 the government contributed a certain amount to create a reserve fund, I suppose if we had started slowly and had only skilled labourers in unemployment insurance, we would have been able

to carry it through, but having all the people in it at once, it lead to many abuses.

MR. STEWART: From what body was the unemployment relief administered? Was it Reich administration?

DR. BRUENING: Yes, the central administration being under the special control of the Ministry of Labour, but not being part of the Ministry of Labour, the president of that body had an advisory council elected by the employees' and the employers' association, and he gave his instructions to the Arbetsaufnägise. The labour exchanges were also distributing the allocation of relief mostly and they, were trying to find places for work for those people and also to have them under control.

THE CHAIRMAN: Were the labour exchanges under the Reich Ministry of Labour?

DR. BRUENING: Yes, but these were not real civil servants. They were people who had been in the administrative work in big offices, Trades Union people, practical people.

THE CHAIRMAN: As I understand it the administration was from the labour exchanges, but in a large important centre they had an advisory committee composed of both employees and employers?

DR. BRUENING: Yes, Mr. Chairman.

THE CHAIRMAN: What were the duties of that advisory committee?

DR. BRUENING: They should have power to find places for unemployed people and to advise them about the financial situation.

THE CHAIRMAN: Who would check up on the question of whether a man who had gone off unemployment insurance because the period had expired, and it was indicated he did not have means to support himself, and sought unemployment aid which would be administered from the labour exchange? Who Doctor, checked up on the means test as to his ability,

was it the Reich officials or the advisory committee?

DR. BRUENING: No. That was by the officials and they worked with the Health Ministry administrators or the police, to ascertain whether he was really in need. We have never come to any final solution of that, and my personal view is that if there were better times and you had a chance to build up reserve funds high enough to meet any demands for unemployment insurance, the whole control should be given to the Trade Unions. We came to the conclusion that our Trade Unions were the best controllers of the question as to whether or not a workman was in need. Take for instance in the building trade, if a workman were lazy it would be known, and it would not be expected that he would look out for work. As I say these people would know that and they would tell the applicant that he would get no further unemployment help. There must be a very high sense of civil responsibility, otherwise it does not work. It worked in Belgium and I think if you have responsible people in charge it works very well. Those responsible for administration find out if the person is in need, and if he is lazy by nature; however this is a question which is very controversial.

THE CHAIRMAN: I suppose when there is an unemployment scheme in operation the workmen is interested in seeing that the workman who is not entitled does not get the benefit, is he? Or, do you find that operates?

DR. BRUENING: Yes. I am speaking as regards unemployment insurance - the fact that a man tries to find work or does not? It is not a question of the means test. That starts only if he is out of unemployment insurance, and comes into the relief system. One point about unemployment insurance is that it is abused by big corporations. To illustrate, a company in eastern Germany has a large number of workmen; they usually try to keep their workmen during

the winter. They have a long winter in eastern Germany and the companies have found that they can dismiss their workmen and the workmen get a certain period of unemployment relief, and the company saves wages for the whole winter. There are certain companies who are only working at twenty or twenty-five per cent of their capacity. That means that they are losing money instead of making money. Therefore, they say let us close down our factories and our workmen will be on the dole.

COMMISSIONER ANGUS: In connection with the insurance premiums are there different rates charged in accordance with the different risks involved?

DR. BRUENING: No, contributions are in proportion to the wages.

COMMISSIONER ANGUS: If one industry did show a great deal of unemployment would the people in that industry pay higher rates?

DR. BRUENING: Unfortunately no.

COMMISSIONER ANGUS: You think unfortunately no?

DR. BRUENING: Yes. The miners and steel workers would contribute to the building workers, whose work is seasonal. The whole mistake was that we took seasonal trades, as we call it, into the unemployment insurance. It was too great a risk from the purely financial point of view, and the wise people and the Trade Union leaders were against it.

MR. STEWART: Were companies incorporated under the federal states' laws or the Reich laws?

DR. BRUENING: In connection with the incorporation of companies the administration part was by the state officials. It was done under the Reich law and the whole was unified by the Reich. There was a law in 1931.

MR. STEWART: I suppose that companies in making annual returns only had to make returns to the Reich.

DR. BRUENING: They had to publish it. You mean their normal balance sheet, and so on?

MR. STEWART: Yes.

DR. BRUENING: But since the law of 1931, they had to use standardized balance sheets of public companies, and we found out if we had had that before we would have foreseen the critical situation in 1927. As there was no standardization many big banks and many big corporations were really able to mislead public opinion and even the government officials and the whole government, but since then they cannot do it any longer.

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MR. STEWART : And for taxation purposes they made their returns to the Reich?

DR. BRUENING: Yes. The corporation tax was a Reich tax.

MR. STEWART: Dr. Bruening, there is a section of the constitution to which I want to call your particular attention and that is article 109 which deals with what are termed in the English translation "Fundamental Rights and Duties of Germans".

DR. BRUENING: Yes.

MR. STEWART: I would like you to give your views as to the value of such an article and after that whether you think it would be more valuable in different wording, that is, if it were worded differently, or if it had a different content.

DR. BRUENING: Of course you have a whole lot of articles in that chapter.

MR. STEWART: Yes. That is so. The whole of chapter 11, practically.

DR. BRUENING: And especially 115, 116, 117 and 118. These are the fundamental articles. And 119, and so on.

MR. STEWART: It practically runs from 109 to 165. Does it not?

DR. BRUENING: Yes.

MR. STEWART: The general title is "Fundamental Rights and Duties of Germans"?

DR. BRUENING: Yes. I think the formulation of most of these articles was quite efficient. There were perhaps, too many articles and there was much declamation. The point is that the limitation of these fundamental rights by article 48, if you will take that very important Article 48 and perhaps be so kind as to read it in English to the gentlemen, you will see what it means.

MR. STEWART: Yes. Article 48 provides:

"If a state fails to carry out the duties imposed upon it by the national constitution or national laws, the President of the Reich may compel performance with the aid of armed force.

If public safety and order be seriously disturbed or threatened within the German Reich, the President of the Reich may take the necessary measures to restore public safety and order; if necessary, with the aid of armed force. For this purpose he may temporarily suspend in whole or in part the fundamental rights enumerated in Articles 114, 115, 117, 118, 123, 124 and 153.

The President of the Reich must immediately communicate to the Reichstag all measures taken by virtue of Paragraph 1 or Paragraph 2 of this Article. On demand of the Reichstag these measures must be abrogated.

If there be danger in delay, the state ministry may, for its own territory, take such temporary measures as are indicated in Paragraph 2. On demand by the President of the Reich or by the Reichstag such measures shall be abrogated."

DR. BRUENING: There is still another sentence in that article.

MR. STEWART: "Detailed regulations shall be prescribed by a national law."

DR. BRUENING: You see, the whole point, why it was possible afterwards to suspend these articles permanently was largely based upon the fact that detailed legislation about article 48 has never been made by Parliament and by the government, and the courts had never given any interpretation to article 48

until October, 1932, when they decided that the decrees of President von Hindenburg was in a measure taken quite clearly against the constitution. That was the first time the Supreme Court had dared, or had found it advisable to give any interpretation. The whole article 48, even if there had not been any law interpreting it in detail could not have been so very dangerous, if it was not connected by an interpretation, with the dissolution of the Reichstag. This whole Article 48, as well as the Article giving the president the right to dissolve the Reichstag is clearly for an emergency. There is no doubt, that if the president makes use of his powers, even for a time, to suspend the articles about the fundamental rights, they shall be permanently under the control of the Parliament. But, if President von Hindenburg in June, 1931, had advised its dissolution before the Reichstag had a chance to start its discussions, it made the control virtually impossible and by that time destroyed the whole legal effect of the constitution in 1932. If the Reichstag had a chance to meet in the summer of 1932, or in the Fall of 1932, it would certainly have passed at once a law cancelling the decrees of the president passed in June, 1932, because they were mostly unconstitutional. Therefore, I do not think the failure of the Weimar Constitution was in the definition of these fundamental rights, they were quite sufficient in detail, it was by the use of Article 48 and the Article giving the right to the president of dissolving the Reichstag in a way which was certainly against the spirit and letter of the Constitution,

COMMISSIONER MACKY: If I may ask a question here, Mr. Stewart, I assume that the constitution could not be pleaded in a court of law to invalidate any of these decrees, quite unlike the American Constitution.

DR. BRUENING: No, quite a different system.

COMMISSIONER MACKAY: You have no system, really, of judicial rights even as against the executive?

DR. BRUENING: No, but you could plead before that part of the Supreme Court which was called Staatsgerichtshof.

COMMISSIONER MACKAY: But, the individual did not have a right to go there.

DR. BRUENING: No, only the federal states.

No individual could plead before the Staatsgerichte but he could plead in certain circumstances before the Supreme Court, what I might call the Civil Department of the Supreme Court, if by any explanation given to an article of the Constitution he might have suffered personal harm.

MR. STEWART: Was the control or regulation of the sale of securities a matter that was dealt with either by the Reich or the Federal States?

DR. BRUENING: Originally it was absolutely by the federal states and also the control of the stock exchange and so on. We had certain laws before the war, regulating from the point of view of principle certain aspects of the sale of securities and stock exchanges, but in detail the control was made by the federal states. Then, afterwards, in 1931, as I have mentioned already, in this decree which changed the whole legal status of the limited companies, you would say, corporations, and so on, the Reich has regulated in detail by decree the sale of securities. I do think that under present conditions, as the financial economic situation has developed in nearly all countries, one cannot avoid a centralized regulation of these matters.

MR. STEWART : When you were speaking this morning, Doctor, you referred to a reduction in the tax on land

of 10 per cent.

DR. BRUENING: Yes.

MR. STEWART: In the land tax. Has there been any movement toward relieving land of the burden of taxation?

DR. BRUENING: Oh yes. I mean to say, that was not the only relief. We left, as I mentioned this morning, agricultural income up to the amount of 6,000 marks, free of income tax, and we freed an agricultural business turnover of 2,000 marks from the sales tax and the general tax on wealth. We increased the tax free size of fortunes to 20,000 marks, so the bulk of the small peasants were in fact paying only one tax.

MR. STEWART: The land tax was the only tax.

DR. BRUENING: Yes.

MR. STEWART: But, was there any tendency to reduce the amount raised from the land tax?

DR. BRUENING: Yes, by decreasing it first to the degree of 10 per cent, and then making it impossible to raise it until they raised at the same time the head tax and the tax on beverages. And then we distributed for a time part of the income tax for the years 1931 and 1932 on the key of the sales tax. That meant taking the population and the expenditure for social relief as a basis for distribution. The rural communities needed more grants from the income tax than they normally would have received on the basis of population. Then we gave the federal states a certain amount of money too, to reduce further the land tax. Our whole idea was to make the rural community only, responsible for their own necessary expenditures, not to tax them for general purposes except by indirect taxation. We wanted the peasant, the farmer, to be absolutely able to have a clear judgment about his whole taxation position and the revenue

and expenditure of his rural community, and we came to the conclusion that that was the main solution of agricultural problems. That means to say, granting a certain stability. The other solutions we had to have, of course, were emergency solutions, but this should stay permanently. And we thought that a large part of the public expenditure created by the rapid increase of the big towns could not be placed in any way by general legislation as a burden upon the rural community. And we hoped that in that way by decreasing generally the taxation on agriculture we might be able to do away, after 1932, with all emergency legislation to save agriculture and to put them back upon a safe and sound economic basis.

THE CHAIRMAN: Was that to increase agricultural production? Or was it because under the then existing conditions the price of agricultural products and the amount of taxation, agriculture was on an unsound basis?

DR. BRUENING: No, it was rather a measure for the future. You must realize that we had stabilized the price of our produce at a level which was about two and a half times the world market level during these years of depression. If we had not done that, the whole structure of Germany would have broken down. But, we were quite clear about it that that would not be advisable to do permanently. We do not believe in any artificial permanent stabilization of agricultural products at a very high level. We were looking for the time when trade barriers would have been brought down so that it would have been possible for Germany to come into closer customs union with the countries of Western Europe as the beginning of a big movement with the other European Countries. For that reason we wanted, when the time of

acute emergency was over, to alleviate the burden of taxation on agriculture to such an extent that the prices could go down for agriculture, because their cost of production, as regards the burden of taxation, was decreased so very much. And, therefore, we cut the rate of interest to a degree on lands and everything and in a year and a half we reduced the cost of agriculture very largely and we might have been able then to give up step by step all the artificial measures which we had taken so far to keep up the price of agricultural products.

THE CHAIRMAN: You mentioned that you decreased the interest on mortgages?

DR. BRUENING: Yes.

THE CHAIRMAN: Was that by decree?

DR. BRUENING: Yes. That was in the fourth major decree.

COMMISSIONER ANGUS: The Vermogensteuer applied to general property? Was it an annual levy on general property?

DR. BRUENING: Yes.

COMMISSIONER ANGUS: Of all kinds?

DR. BRUENING: On all kinds of property. But, with 20,000 marks of Vermogen free of this tax you had the bulk of the small peasants not paying that -- after these decrees were put into force. It was not possible to do it in six months, it took two years time, really, to put them into practice. They had, practically speaking, only to pay this single tax for the local expenditure.

MR. STEWART: As regards land in urban centres, not agricultural land, did the 10 per cent reduction apply to that as well?

DR. BRUENING: Yes.

MR. STEWART: And also the balancing with other taxation?

DR. BRUENING: Yes.

MR. STEWART: Is the basis of assessment the actual selling value in an urban real estate?

DR. BRUENING: More or less, yes. Mainly since 1925.

MR. STEWART: Since 1925?

DR. BRUENING: Yes, mainly. Of course, you do not take into consideration the extreme speculative price of a certain house or a piece of land in a town.

MR. STEWART: What you might call the normal selling price?

DR. BRUENING: Yes, the normal, that is quite right. We call it the gemeinwerthe. That is about the same.

MR. STEWART: The middle worth?

DR. BRUENING: Yes.

MR. STEWART: You spoke earlier this morning about the distribution of income tax and other forms of tax on the basis of certain keys?

DR. BRUENING: Yes.

MR. STEWART: Would you mind going into that a little more fully, to indicate what factors were taken into consideration in building up these keys?

DR. BRUENING: Well, I take first the income tax and the corporation tax. That was, of course, the same for both. Say, for instance, the income tax collected in the state of Prussia was 50 per cent of the whole income tax collected in the whole Reich, then Prussia got back 75 per cent of this half of the whole income tax collected in the Reich. And then Prussia redistributed to the municipalities. If I remember correctly about 55 per cent of the whole income tax refunded to Prussia was then again refunded to the municipalities. And that was based upon -- I cannot find a word -- we have a technical word. I mean to say, how it originated

in the municipalities. I do not know if I make myself clear.

COMMISSIONER ANGUS: The place of payment?

DR. BRUENING: Of payment, yes.

THE CHAIRMAN: The source of payment?

DR. BRUENING: Yes. And take the town of Cologne. Let us assume the town of Cologne altogether collected 100,000,000 marks income tax, then 25,000,000 marks of this 100,000,000 were left with the Reich; 75,000,000 marks were refunded to Prussia, (Of course Cologne is in Prussia), then Cologne got from those 75,000,000 marks 55 per cent. I cannot work it out so quickly.

What is it?

COMMISSIONER DAFOD: About 40,000,000.

DR. BRUENING: About 40,000,000 marks, yes. That was mainly on the basis of the total amount of locally collected income tax. Each individual town in that way got back a certain percentage, differing in different federal states, of the locally collected income tax. But, as I mentioned before, Article 35 of the so-called Finanzausrat, provided that before this 75 per cent was refunded the federal states a certain amount was taken away. It was perhaps altogether 150 million or 200 million marks. And they were divided by quite other principles, not on the basis of the local origin, if I may use that word, of the income tax in the different federal states, but they were used to help the poorer states. It meant that those federal states like Hanover, Prussia and Saxony which per head of the population collected quite higher income tax had to renounce a certain part of the income tax normally to be refunded to them and this was re-distributed on a very complicated key, taking into consideration the amount of population, not the amount of the wealth of taxable

income, but the actual number of population, the expenditure for education and for welfare, for unemployment benefit and everything like that. And by that way the poorer states got a special grant out of the pocket of the rich industrial states. And then the sales tax of course, was generally refunded to the federal states to a changing amount that was not always the same. The Reich Government kept back the major portion of the sales tax, the rest was refunded on the basis of a key mainly based on the principle of the amount of population in each federal town and also on the amount of the special expenditure for education and for social purposes.

COMMISSIONER MAKAY: Let me ask a question here, Dr. Bruening. How did they determine whether an area should get back an additional subsidy or not? Did they determine that on the basis of the revenue collected there? I mean, how did they know an area was a poor area?

DR. BRUENING: Well, of course, first of all we knew the budget of the federal states.

COMMISSIONER MAKAY: What test did you apply to decide whether an area was a poor area or not? Conceivably they might differ from year to year, might they not?

DR. BRUENING: Well, the test was how far they had raised their own taxation, the taxation which was left to the federal states and municipalities and how far they had been able to cut down their expenditure. You will find in the first major decree very complicated standard rules.

COMMISSIONER MAKAY: Supposing a particular state did not apply all the taxes it could, did not reduce its expenditures as it could?

DR. BRUENING: That was definitely regulated in these decrees. You see, I mentioned also that Bavaria

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which had a lower taxable income per head of the population than Prussia and Hanover and Saxony, tried always to get something out of this Article 35, but this was partly because they kept their own taxation, which was reserved for them at a very low level to become popular among their own population. And after part III of the first major decree had been issued they could not do it any longer, they had to raise their taxation which was especially reserved for them and their needs to the same level as it existed in Prussia, Saxony and Hanover. And after that time we had a clear index of how their needs for these special grants for the different federal states were. But until this obviously could come into practice some of the federal states could produce figures which made it very doubtful as to whether they were in need of help. This part III meant really that all the federal states had to collect their land tax and their business tax and the municipalities their taxes as well on a standard rule. That means to say so many marks per acre of the same kind of soil, for instance, and we could then see very easily with the multiplier they used. If they used the multiplier five and the neighboring country, which had very sound finance really, preferred to use a multiplier six or seven, supposing they asked for a grant, we could tell them we would be able to help them as soon as they raised their multiplier from five to six or seven, but until they had done that we would not be able to help them. Is that what you mean?

COMMISSIONER MACKAY: Yes. Then the central government, or the Reich, had discretion?

DR. BRUENING: Yes, but under a law.

COMMISSIONER MACKAY: A discretion to determine whether a state needed help or not.

DR. BRUENING: Yes. And it was very difficult to pass for two years this Article 35 about the distribution of the grants to the federal states in the Reichstag because the Reichsrat people objected to it very strenuously. They said : "Why shall we make a grant, supposing the Bavarian Government do not want to get unpopular in their own country and therefore do not tax their people enough and do not like to make reductions in the expenditures?" But the Reichstag was very much in favour of this decree and they wanted very much to have it so that it was not possible to pass it in time, because it had to pass first the federal chamber and they always tried to sabotage it. Now, in passing it by decree the federal chamber had no right to say anything about it, but the Reichstag was very pleased.

COMMISSIONER MACKAY: Thank you.

THE CHAIRMAN: Human nature does not seem to be very different in Germany than it is in some places on this continent.

DR. BRUENING: No..

COMMISSIONER MACKAY: Do you mean the keys had to be revised each time the act was passed? I mean, did the act have a different key or index used?

DR. BRUENING: We had not to change the keys every year and after all this information had existed perhaps in practice two years all that key system would no longer be necessary. There was an elaborate key system necessary before and then we could say we would refund the sales tax on the basis of the number of population and the income tax on the base of where it is collected. But, if you remember the first inflation, then stabilization, which always means a deflation, and then suddenly the reparations annually increasing, and then an influx

of foreign loan money and then the contraction when the eflux started, meant nearly every two years those in Germany after the war had to change the whole fiscal policy not only in the Reich but in the federal states and municipalities and adapt it each time.

COMMISSIONER ANGUS: So, the key system was a temporary measure looking forward to a permanent measure on some other basis?

DR. BRUENING: Yes, this first major decree has a law about the definite regulation of the grants to the federal states and municipalities, which is very short, and will leave it to the government to regulate it in the federal state. That would have meant we would have had this elaborate system of keys abrogated later on and stick to a few main principles to distribute the sales tax, giving the federal states the large amount of the head tax, distributing certain taxes on the basis of the population and social needs, distributing the income tax on the basis of the local origin and distributing the alcohol tax ----- You were asking this morning about that ---- on a key which took into consideration at the same time the population, and so the consumption. The production of alcohol was in the east and by that way the agricultural part of the east would get a certain better treatment from the revenue of the income tax. Then, the problem was solved really. Every community could then live quite well if they did not want to be extravagant in expenditure.

COMMISSIONER MACKAY: I would just like to follow that with one question: In your opinion do you think this system led to subsidizing uneconomic areas?

DR. BRUENING: Well, these areas would not have been uneconomic if it had not been on account of the

absolute change of agricultural basis after the war, you see.

COMMISSIONER MACKAY: It was really, then, helping to save an important national industry?

DR. BRUENING: Yes. Let me make it clear, for instance 60% of the whole industry of Silesia was more or less worked for the export trade with those two Prussian provinces which we lost to Poland, and formerly we had very low rates of tariffs in our trade with Austria. Silesia was practically blocked in in the south and west by Austria and the rest of the trade went to Austria. Now, when all these new states were grouped, they put up very high trade barriers, so the whole province of Silesia lost practically all the market and, therefore, we had to help them.

MR. STEWART: Dr. Bruening, would you tell the Commission something about the old age pensions and the administration in Germany? Perhaps, you might say a word as to the history of it.

DR. BRUENING: Yes. Old age pensions and the insurance acts, disablement, was quite outside the budget, except that since 1914 a second additional payment was taken out of the rise in agricultural customs duties to build up a reserve fund for it. It was begun in, I think, 1887 and worked very well and the funds slowly accumulated. It was administered by the provincial bodies under the supervision of, formerly, the secretary of state for the interior and afterwards the minister of Labour -- the Minister of Labour since 1919. Those funds since the early 90's were given as first mortgages at a low rate of interest to workmen to construct their own houses if they had enough savings to get their second mortgage. So that they could start to build a house and have a

small garden; and by that time we had slowly done away with all the slums in Germany, we had no more slums existing before the War, except a few in Berlin and in Saxony. One must realize, except for a very small amount, these funds were more or less lost during the inflation times because they had to be invested in war loans. The money spent for old age and disablement was not in the budget. It was self-administered under public control, under governmental control, and the same was true for the health insurance. We had partly local institutions, I mean to say for the workmen in the smaller communities, we had one such institution for health insurance for the whole community. Or in big towns we had it based on professions. The painters had one, the builders had one. Or, we had a system, for instance Krupp had for his big plant one such institution. The administration was so that it was based upon the elections, the employers and the employees were electing their representatives to that body, which, of course was running everything on their own idea based on the need of self-administration under certain control on the part of the government. That worked out in general very well, except it was a little bit abused later on and we had to devise certain reforms, which we did, of those abuses. But all these social securities were not in the budget; they were self-administered, collected their own revenue by percentage contribution in relation to their wages.

MR. STEWART: The funds were almost exclusively contributed by the workman and the employer?

DR. BRUENING: Yes.

THE CHAIRMAN: On what basis of division, Dr. Bruening? Fifty-fifty between the employers and the workmen?

DR. BRUENING: It was different in the different institutions. For instance, in the unemployment insurance it was fifty-fifty. In the invalid insurance originally, and old age pensions, it was one-third employee, one third employer and one third the Reich Government but that was again changed afterwards. And, as regards the health insurance, it was changed from time to time too, but it was mainly based upon the principle that the major part in the health insurance had to be paid by the employees and the smaller part by the employers. So that was, practically speaking, self-administration controlled by the state, but not being part of the general administration and running into the budget.

MR. STEWART: And not a burden on the budget?

DR. BRUENING: No.

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THE CHAIRMAN: I would just like to return for a moment to the fundamental rights of citizens; I would like to have your opinion as to the desirability of a declaration of fundamental rights.

DR. BRUENING: Well, I think they are most important. I would rather like the formulation to be more concise than in the Weimar Constitution. The question of how these fundamental rights should be treated is quite a problem, especially in times of emergency. The lack of a clear indication, in Article 48, of these rights, was the main reason for many things happening at a future date. Then, of course, there are certain developments in the modern, technical world which I think need regulation. This is true, I think, not only in the dictatorial states but also in the democracies. The telephone would be one of the things which would come under that heading, I think. Telephone wires may be tapped, and circumstances such as these call for the formulation of a new policy. Formerly, the tapping of wires was quite difficult. The right of a private citizen to carry on a conversation in his own house is now very much in danger when you can have microphones installed in cars and rooms which are able to pick up this conversation. The French republic has been forced to introduce a law--it is not yet introduced--but they are discussing it because in time of a currency emergency some of the members are always trying to destroy confidence and create a new flight of capital. Such a thing would certainly be the ruination of the whole country. It is a very new and very acute problem.

THE CHAIRMAN: How would you meet such a problem?

DR. BRUENING: I would give an absolutely fair interpretation of those Articles of the constitution

which are safeguarding the freedom of the press. However, at the same time, there are those who are willing to take action to destroy the stability and confidence of a nation.

Personally, I lost hope that the German courts would do anything; they always decided against the government as a matter of principle. Before the war, every judge considered it to be his special duty to make his findings against the government. This same principle was applied when Cabinet Ministers were brought before the courts. The judge would generally say, "Oh yes, it is a very great offence and you, as Cabinet Minister, must prove to us, what has been said or written against you, is untrue." The man who is the offender is not bound to prove it true. Even if it was proven, then the judge declared that it was clearly proven that this was an offence based upon misinformation but it completely served the public interest that this offence had been cleared up and the matter published. In this way there was no chance of defending the honour of the Cabinet Minister or Reich president. We have been trying to introduce some organization into the press, but we have so many extremes; the extreme Right and Left, the Nazi and Communist. It will be a great problem to try to introduce some organization in that field.

It is difficult to give an impression of the special circumstances which prevailed in the Post-war Germany. Personally, I have no animosity towards the press, but if the situation were created whereby Canada had twenty Communist daily papers and about 150 Nazi daily papers, you might find it quite a problem with which to deal.

THE CHAIRMAN: You were going on to suggest how you hoped such a thing might be dealt with?

DR. BRUEMING: You know, the medical profession has a court of honour which is found in most parts of the world.

THE CHAIRMAN: We have one here.

DR. BRUEMING: We wondered if the medical profession could do it on its own initiative, if the press could do the same. By that means it would be possible to exclude the people who purposely wanted to create a disturbance. Germany has followed this system of not having the Government interfere, but of leaving it to the Council of Honour for the press. However, this is regulated by the Minister of Propaganda, and thus the law operates for quite a different purpose.

THE CHAIRMAN: In a democracy, what would you say concerning the question of the freedom of the press, where there is danger of that freedom being abused, would you allow that to be dealt with by a court of honour composed of the members of the press?

DR. BRUEMING: I do not believe in any regulation by the government.

COMMISSIONER ARNOLD: Isn't there, however, regulation by the government there? For instance, the medical profession is a profession which is not open to the public and is, to some extent, regulated by law. Would you regulate the right of the public in the same way in regard to the press?

DR. BRUEMING: No. This body of the medical profession in Germany was not in any way introduced by the State or regulated by legislation. It was purely a voluntary undertaking on the part of the doctors. They have a kind of charter; it is not the same as that which you call a charter. I do not know how to translate it exactly. If the newspapers had founded the same type of

organization on their own initiative, they would have had such a charter, too.

COMMISSIONER ANGUS: What I meant was that any one could write for publication.

DR. BRUENING: If the court of honour decided that he could not be a member of that union, then he could go on writing as he liked.

COMMISSIONER ANGUS: Otherwise it would be making the press a closed profession, the same as the medical profession?

DR. BRUENING: No, it was not meant to work like that in practice. What we had was an organization upon a purely voluntary basis. You could be a member or not, and you were free to practise your profession. Of course, every medical man desired to be a member of this court of honour as it gave him a real social standing in his profession.

THE CHAIRMAN: I presume you would have no objection to stating that while you believe there should be as part of the fundamental rights of citizens, freedom of the press. This should always be subject to the general laws of the land, and you believe that any extreme in publicity which might tend to disturb the peace or order and yet which did not come within the Criminal Law, might be dealt with by this court of honour composed of the members of the press?

DR. BRUENING: Yes, on the basis of what we have been discussing at the time we had a court of honour for the medical profession. In fact, a majority of the members of the press wanted this, themselves.

THE CHAIRMAN: Your comments and suggestions are against any legislative control of the press?

DR. BRUENING: Except in time of war.

THE CHAIRMAN: I just wanted to make sure we understood your view correctly.

DR. BRUENING: Yes.

MR. STEWART: In the administration of the taxation laws of Germany, are there any indications that they are being fairly administered in spite of political changes?

DR. BRUENING: Yes, I must say that this taxation administration which was introduced after the war and which was carried to the upper possibility of constitutional powers in this decree, is working very well.

MR. STEWART: There was just one other question, I think. In 1930, there was a financial readjustment between the municipal units and the federal state, they were told what their income would likely be?

DR. BRUENING: Yes.

MR. STEWART: They were asked to manage their affairs so that they would keep within this income?

DR. BRUENING: Yes.

MR. STEWART: Was the question of municipal bankruptcy mentioned at that time, or was there any imminent danger of that happening?

DR. BRUENING: Yes, there was that danger.

MR. STEWART: You might just indicate to me the extent to which that was resorted to.

DR. BRUENING: You mean to say, how many?

MR. STEWART: Yes.

DR. BRUENING: Most of our big towns were in danger of bankruptcy, but as a result of these emergency decrees, they were all brought into order. Most of the municipalities, I do not speak about some of the smaller ones, have put their financial condition into order. By the end of 1932, the budget of most of the municipalities was generally balanced.

MR. STEWART: No bankruptcies insued?

DR. BRUENING: No, none.

MR. STEWART: Were there some occasions where municipalities asked for the appointment of managers?

DR. BRUENING: Oh yes, because they could not find a majority in their town councils to make the necessary cuts in the expenditures or to increase certain revenues. Generally, this worked quite well. It is on the basis of this experience that the present government has issued new charter regulations for the municipalities. Of course, their administration is more or less general, but for practical taxation purposes, everything that had been embodied in those different decrees for the last two years, is now contained in this charter. This has now become a permanent basis, so that would indicate that it has worked very well. It has worked very well--in fact, the gentleman who drew up this charter is now the Lord Mayor of Leipzig and was a cabinet member during the period I was in office.

THE CHAIRMAN: Just one further question on that point: Where a director is placed in charge of a municipality which is in difficulty, has he the right to control the tax rate?

DR. BRUENING: Do you mean the Commissioner?

THE CHAIRMAN: Yes. Is he authorized by law, to fix the tax rate and to determine the amount of the expenditures?

DR. BRUENING: Well, yes. I meant to say, that the possibility for appointing such commissioners was created by this decree which I have mentioned. It was signed in August, at the summer residence of the president. One of the main duties of this commissioner was to cut down the expenditures, not increase the taxes, because that was

generally automatic with this new system of taxation.

THE CHAIRMAN: His duty was to cut down expenditures?

DR. BRUENING: Yes.

THE CHAIRMAN: Now, I would like to have the benefit of your opinion on two or three points. You are a student of government under the federal system, as well as of democratic institutions? You have delivered a series of lectures at Harvard and are about to deliver a series at Oxford, concerning government under democratic institutions. Can you tell me what you consider to be the most difficult factor in the working of a federal constitution, does it relate to finance, or is there some other problem which is more difficult?

DR. BRUENING: I have found two very important problems from my own experience, and what I have observed in other European countries. The important problem is, of course, connected with financial questions. As I pointed out this morning, one of the great reasons for the degeneration of democracy is that there is no clear and direct responsibility for the financial policy of the great institutions. After all, a democracy needs more responsible citizens than any other form of government. On account of the complexity of modern financial problems and the system of taxation, wherever mistakes are made, democracy is bound to lose a very large part of its following. Then, of course, there is the typical way in which a democracy does everything by the slow parliamentary method; performing as it does, a great many functions which I would call administrative functions. They are not purely legislative functions, but they are performed by parliamentary procedure. There is a very great danger in this method of procedure, taking into consideration the complexity of modern economic problems.

consideration the complexity of modern economic problems. I think the best solution would be for the laws to be enacted simply giving certain principles, and leaving much of the administrative work to the officials who could adapt it to individual needs. I do not know if I have made myself clear on that point.

THE CHAIRMAN: Yes, quite clear.

DR. BRUENING: If conditions over the whole world are changing every few years, you are faced--not so much in export countries, but in import countries--with many new problems. If you make one law after another, to overcome these new problems, you will finally end with a bewildering complexity of laws which no one is able to fully comprehend. The great reform contained in the decrees of Prussia during the Napoleonic Wars was made in very simple language. They were carried out twenty years afterward, and they were the basis for the control and administration of the government, as I have mentioned, for nearly a hundred years. It was not necessary to change the legislation during that time. If parliament is forced to discuss too many laws and too complex legislation, it will generally lose its influence upon the population. You will have the same situation as you have in England, where the government is controlled by parliament under a non-existent constitution. Everywhere there is a demand for better legislation, but it is very seldom that any of the articles of the law are changed very much. Even the number of private bills has dropped quite a bit. It shows that you will have to adopt broad principles under this new situation and leave much of the detail to the administration.

THE CHAIRMAN: That is the second of the two points,

I suppose, one financial, and the other that general principles be embodied in legislation.

DR. BRUENING: Yes.

THE CHAIRMAN: Dealing with the financial point first; from your experience have you any information to give us as to the difference between the administrative efficiency of a body which imposes taxes to raise money for its expenditures, and a body which administers a fund raised by some other governmental body?

DR. BRUENING: I am sorry, but I did not quite understand that question.

THE CHAIRMAN: Do you find any difference in the administrative efficiency between a governmental body or a municipality which raises its own revenue by taxation, as compared with a body such as a municipality which receives its whole revenue from some other source?

DR. BRUENING: By grants, or subsidies?

THE CHAIRMAN: Yes.

DR. BRUENING: I think the latter system is instrumental in bringing about a feeling of irresponsibility and is not conducive to a sound basis for public finance. I believe in certain general regulations by the central government and the supervision generally by them, but as regards the collection of taxation and the responsibility for spending, that should be upon the municipalities. This is so that everybody will realize clearly their responsibility. Is that what you wanted?

THE CHAIRMAN: Yes, that is the point I had in mind. You spoke of the distribution of grants from the Reich to the states, and you spoke of certain amounts which were deducted in order to aid the states which did not have the same sources of revenue as some of the more

wealthy states. Has any principle been laid down by the German government at any time with a view to securing, so far as is practical, the equality of citizens' rights in the different parts of Germany? May I add to that, this: It has been presented to us that the financial relations between the Dominion and the provinces should be so adjusted that the social and educational opportunities of the citizens in one province should be equal to those of the citizens in another. That the citizens of the provinces which were less able to maintain the social services should be granted the same opportunities through the aid of the central government. Have you any opinion to express on that point?

DR. BRUENING: Might I ask for an explanation of one word which seems to assume some importance; what is meant by social services?

THE CHAIRMAN: Social services in Canada would be deemed to include unemployment insurance, old age pensions, possibly health insurance, mothers' allowances, and matters of that kind. In some of the Briefs, education has been stressed, and while not directly a social service, it was one of the services which it was desired the central government should provide for the citizens in a reasonable measure of equality. It was suggested that there should be some adjustment as between the federal and provincial governments to make possible all services to all citizens, irrespective of where they might reside.

DR. BRUENING: Might I give the answer in such a way that I give the details of one point at a time? I do not think I can give any answer which would cover all points at the same time.

THE CHAIRMAN: Yes.

DR. BRUENING: From our own experience, I should think that old age pensions should be put on a well based principle of insurance. If the people expect to benefit from this after a time, they should expect to contribute week by week towards that fund. Since approximately 1880, a small percentage of the wages of an employee has been collected for this old age pension fund. As soon as a person starts to earn his own living a certain sum is taken as insurance for old age. Therefore, there should be a law whereby this would be regulated throughout the whole Dominion.

THE CHAIRMAN: Just before you pass from that point; in Canada, the old age pension is a purely government grant to the people who are in need. This applies after they attain a certain age. It has been represented to us in some of the Briefs filed, that the principle is not sound and wherever it has been tried, it has been abandoned. We have been urged that it should be put upon the basis of a contribution by the employee and possibly the employer or some other party.

DR. BRUENING: We only have contribution by the employee. He is forced to put aside week by week, a very small percentage of his salary in order that later on he will be entitled to this old age pension.

THE CHAIRMAN: In Germany, is it wholly contributed by the employees?

DR. BRUENING: Yes, so far as I remember. The second point, what was that?

THE CHAIRMAN: Unemployment insurance.

DR. BRUENING: Unemployment insurance--of course, in ideal times, my view would be that it should be supervised by the central government and it also should be based upon a sound insurance principle. There should

also be a very careful inquiry made to see that professions were not included which were not stable and would prevent the building up of a sufficient reserve fund to meet a crisis.

THE CHAIRMAN: I think you have already explained that you believe it should be administered from the unemployment relief offices.

DR. BRUENING: Yes, and I think consideration should be given by the central government to those parts of the country which are purely agricultural, in order to see that they are not asked to pay too much for a crisis which is, perhaps, partly the consequence of too large an expansion of industry. Therefore, I suppose the risk should be divided as we did it in our second type of unemployment insurance; one-third by the central government, one-third by the government of the states, and one-third by the municipalities.

THE CHAIRMAN: Dealing with that, have you, in Germany, considered the distinction between a man who is unemployable by reason of lack of opportunity and a man who is unemployable by reason of mental or physical defects? Who provides for the care of the unemployable?

DR. CBRUENING: They were called wohnjahrarbeiterlosen, and this type of unemployable was taken care of by the municipality.

THE CHAIRMAN: Mothers' allowances, have you such a scheme in Germany?

DR. BRUENING: Oh yes. For a long time that has been regulated on a sound administrative basis by the health insurance institutions. There was a law for mothers, administered by the health insurance institution which provides money for them for maternity.

COMMISSIONER ANGUS: There is a possible misunderstanding between maternity benefits, which I think you have discussed, and the allowance made for a widow who has children to bring up and educate.

DR. BRUENING: They would be taken care of under the Invalidity Insurance for workmen. If a workman were killed by an accident or disabled, his wife would be given an allowance under the Invalidity Insurance plan.

COMMISSIONER ANGUS: Suppose he deserts his wife?

DR. BRUENING: That is a municipal responsibility.

COMMISSIONER ANGUS: It is not on a pension basis; it is like poor relief?

DR. BRUENING: Yes. Then, of course, we have a reduced taxation according to families; for every child the taxes are reduced.

THE CHAIRMAN: Then education?

DR. BRUENING: Well, I think the manner in which education was dealt with under the Weimar Constitution was very good. It laid down the principle that the central government did not mix in the rights of the federal states.

THE CHAIRMAN: My question is not directed so much to legislation, but more to the question of grants. There may be a situation where, for economic reasons, a certain city or province is not able to maintain as efficient a standard of education as some other province whose economic conditions are better. It has been suggested to us that in such cases the federal government should aid them by a grant so that it would be possible for the province with a less favourable economic condition to maintain educational facilities in some sense comparable

to the other provinces.

DR. BRUENING: This was not a question which concerned the central government in Germany. This problem came up before the governments of the federal states, like Prussia. These states gave, under certain conditions, a grant to aid the municipalities in certain parts of the country. For instance, if a new school had to be erected in a certain area, that area was given a grant which covered a certain percentage of the cost of the school. This has been a principle from which we have digressed for only a short time. We believe we must never be prepared to stand the full cost of building a new school. It is our belief that the policy of giving full aid to the municipalities gives them rather luxurious ideas. For this reason, I must repeat, that the policy of a central government should be to never give grants to provinces or municipalities for purposes in which the provinces or municipalities do not participate. Wherever these municipalities or provinces have no financial interest in the matter, they find it rather easy to be very extravagant.

THE CHAIRMAN: There must be a participation by the municipality?

DR. BRUENING: Yes.

THE CHAIRMAN: Did you consider at all, the problem of getting equalized education? There might be some areas which were not as favourably situated, economically, as others; has that problem arisen with you?

DR. BRUENING: Yes, to a certain extent. We met that very largely by the use of this key which was used for the refunding of the sales tax. This was used according to population, and was the reason for many of the larger communities getting more money.

COMMISSIONER DAFOE: It was not earmarked?

DR. BRUENING: No, because there were parts where you would average five children to a family, that is in mining towns of Westphalia as compared with Berlin, where you would average one and a half children per family.

COMMISSIONER ANGUS: Didn't the Weimar constitution deal with schools at the other end of the scale, that is, distinct schools for the rich children, didn't it forbid them?

DR. BRUENING: Yes. They were allowed to stay up until 1928, and then they were abolished. It has not been of an altogether good effect, and there was strong reaction against it, as late as 1930.

COMMISSIONER SIROIS: May I assume that since 1885, Germany has given a lot of protection to large families?

DR. BRUENING: Yes.

COMMISSIONER SIROIS: Not only lately, but since 1885?

DR. BRUENING: Oh yes, they have increased the protection greatly under the present regime. They have provided housing for the large families, and then a decree was introduced whereby unmarried people were subject to a special tax. The money received from this tax went for relief for large families.

COMMISSIONER SIROIS: You believe that large families should be encouraged as much as possible?

DR. BRUENING: Oh yes. I am not at all of the opinion which seems to be common among a great many economists. There is a belief that certain industries planned on steady increases in families, but during the past few years these increases have not been forthcoming, and so the produce of these industries could not be used. This might be, in a small measure, responsible

for the period of business recession.

COMMISSIONER SIROIS: I asked the question because I come from a province where large families predominate.

DR. BRUENING: Oh yes, quite so.

COMMISSIONER SIROIS: This morning, you mentioned a federal bank. Is that a state bank?

DR. BRUENING: I meant to say the federal reserve bank.

COMMISSIONER SIROIS: Are there a number of state banks such as the Bavarian State Bank, the Prussian State Bank, and so on?

DR. BRUENING: Yes, but they have had no great importance since the war.

COMMISSIONER SIROIS: But there are still state banks, like the Bavarian State Bank?

DR. BRUENING: No, they are no more; but that did not make any great change. The Reichbank in Berlin has always been dominant.

COMMISSIONER MACKAY: Germany had a Bill of Rights in its constitution which was unenforceable by the individual; only a state could bring that Bill of Rights into force against the federal government?

DR. BRUENING: Yes.

COMMISSIONER MACKAY: You have had some experience in living in a country where there is a rather elaborate Bill of Rights which the individual can enforce even as against the government, that is, in the United States. You are now in a country which has no Bill of Rights, and it was suggested to this Commission in one representation made before it, that there should be a Bill of Rights in the Canadian constitution. If you would care to express your opinion on that, I personally, would very much like to hear it. Do you think there should be one?

DR. BRUENING: Perhaps, I must say, first, that there is some misunderstanding in regard to the German Bill of Rights. If an individual felt his rights had been infringed upon, he could go to a judge.

THE CHAIRMAN: That would be a civil suit for damage?

DR. BRUENING: Yes. Then by Article 48, by presidential decree, this Bill of Rights could be suspended. Then, only one of the federal states could cancel it by action of parliament or one of the federal states could plead against the use of Article 48 for the suspension of this Bill of Rights.

COMMISSIONER MacKAY: Perhaps, a better example would be the French constitution where the Bill of Rights is unenforceable by the individual?

DR. BRUENING; Oh yes, and I can only say that if the courts are safeguarded by the Bill of Rights, it is possible to set right any constitutional matter. If you have that safeguard in the provincial constitution and have it, in addition, very strongly in the Dominion constitution, I would congratulate you. I have seen how quickly times are changing and how important it is to have a very strong independent court which would enforce the Bill of Rights.

THE CHAIRMAN: Might I supplement Professor MacKay's question by asking what rights you believe are of such a fundamental type that they should be safeguarded, even in the constitution?

DR. BRUENING: I cannot really give an answer from the point of view of principle, but I can from the point of view of experience. I would make it absolutely impossible for any judge to be arrested even during the time of an emergency. A judge could not be disposed of

or removed, and could never be arrested (except with the consent of higher judges if he had done something in conflict with the criminal code.)

THE CHAIRMAN: In other words, you put highest, the independence of the judges?

DR. BRUENNIG: Yes, because experience has shown us that the independence of the judges was abolished even if the Bill of Rights was in force on paper. You might say that I classify as second, the right of expressing openly and freely any opinion upon political matters. There is no doubt about it, that the greatest danger is not coming from such a party which openly proclaims a revolutionary change. The greatest danger is coming from those parties who really wish a revolutionary change but who are pretending to fulfill all the requirements of the constitution. I do not think I would be able, at the moment, to give any definition for a future constitution. Our experience has been such, that if a constitution strives to define everything from an extremely democratic point of view and establishes controls for safeguarding certain things, the general practice has been that these different controls are going to come into conflict. There may be a clever fellow making use of such conflicts. This person might say that he wants to protect the constitution and wants to fulfil all the requirements of the constitution, while he is taking advantage of the conflicting controls. These are the most dangerous people, and I do not believe I would be able to find a formulation which would meet this requirement. It is, therefore, important to adopt a policy of having a high type of judiciary, and an absolutely independent judiciary. You cannot foresee, in

any constitution, all the possibilities which might arise one day; but it is the duty of the judges, at certain times, to interpret the constitution in such a way that through the Bill of Rights, individual rights are safeguarded against abuse by the government, as well as by any revolutionary party. I have spoken about my opinion concerning the liberty of the press. There is a certain danger in our modern times, that this privilege might be abused. I do not know if there is any safeguard for that, but it is certainly very important. If you have these rights defined in the provincial constitution as you have in the central constitution, then, perhaps, if it does not work in the one case, it will work in the other. I have said before that all federal governments find great difficulty in meeting the complicated economical conditions of our times. If there is really a feeling for a provincial system in the nature of the people, there is a very great chance of fighting against totalitarian ideas. I think it is much more difficult to introduce totalitarian ideas into a strong federation of states, than it is to introduce it into a centralized country. You might, perhaps, be successful in introducing such an idea into three or four of the federal states, but not in fifty-two or fifty-three. Such things as the freedom of the sciences and so on, are better safeguarded by the federal states: I am always against too much centralization.

COMMISSIONER SIROIS: Would you be in favour of strong federal units or strong states?

DR. BRUENING: Yes, but to limit their duties to those branches of public life to which they are most suited. I do not believe it is possible, under present

world economic dconditions, for a federal state to embark upon a separate economic policy. I think the economic policy, must, for a time at least, be controlled from the central govrnmnt. This should be, at least, until the time of emergency is more or less over.

THE CHAIRMAN: Then, the points which you believe are fundamental are the freedom of speech and the freedom of the press, as you have defined them.

DR. BRUENING: And equality before the law which is safeguarded by the judges.

THE CHAIRMAN: Equality before the law and the maintenance of the federal as opposed to the unitary state?

COMMISSIONER DAFOE: I suppose the right of free association is implied in the right of discussion and meeting?

DR. BRUENING: Yes, the right of meeting. However, might I put the question to you: What would you do if you were in a country where it was openly preached at all meetings that certain action be taken to destroy the constitution and create a new regime?

COMMISSIONER DAFOE: I think our common law is supposed to deal with such a question.

DR. BRUENING: Then, you are very fortunate.

THE CHAIRMAN: Our constitution would not interfere with an association organized to secure a change in the constitution by peaceable means. Our common law and the criminal law would interfere with anyone seeking to change that constitution by violent means. If they seek to change the constitution by discussion and vote, our law does not interfere. So far as the federal law is concerned, the law would not interfere only with those

seeking to change the constitution by violent means. Our criminal code would stop that.

DR. BRUENING: Suppose, for instance, a parliamentary organization were trying to kill members of other parties in the street, what would then happen under your laws, would this whole organization be condemned?

THE CHAIRMAN: It would be a criminal conspiracy to commit a crime, and all the parties to that conspiracy would be liable under the criminal code.

DR. BRUENING: But if you cannot prove that the whole organization is connected with that crime?

THE CHAIRMAN: If two people agree together that they will work to secure the killing of another person, that is a criminal conspiracy to murder. This is something which our criminal code fully covers.

DR. BRUENING: I think it is well if it is clearly defined in the penal code and common law. I think the judges should be given every opportunity to deal with matters free from any political atmosphere.

THE CHAIRMAN: Now, are there any other of those fundamental provisions which you can think of at the moment?

DR. BRUENING: Well, I do not know. The problem presented by the use of the radio for political purposes is a very interesting one. I do not know if it is possible to define a definite ruling for this matter, but it seems to me of very great importance as a future problem. I must confess that up until the moment I have found nothing to regulate it. For instance, take the situation in Germany, where the people have been accustomed to monopolization of the radio for many years. I do not think they will change back very soon, because

if it falls into the hands of another party, they might abuse it, the same as it has been. I do not know whether it is possible to find some good principle for the regulation of the use of the radio.

COMMISSIONER ANGUS: My question is just one which has to do with the placing of the right to impose taxes in the hands of persons who do not suffer from the taxes. I think you said under the Bismarckian constitution, the municipalities could add a portion to the income taxes?

DR. BRUENING: Yes.

COMMISSIONER ANGUS: And they could spend the money?

DR. BRUENING: Yes.

COMMISSIONER ANGUS: And the right to vote was assigned in the municipalities so that the class paying the most income tax had the most voice in the government?

DR. BRUENING: Yes, the system worked very well from a financial point of view. However, the people were dissatisfied because they said that the right to vote on the basis of income as imposed was unjust.

THE CHAIRMAN: On behalf of my colleagues and myself, I desire to express our very deep appreciation and our great pleasure in having you here. We are greatly indebted to you for the information and assistance which you have given us, to-day.

DR. BRUENING: It has been a very great honour for me. In answering your questions, of course, I could only speak from my own experience.

(The Commission adjourned at 5.00 p.m.,
until 10.30 a.m. Monday, January 31.)

ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

REPORT OF HEARINGS

210-107
112,205

JAN 3 1 1920

REPORTERS:

George Thompson
John Robertson
David Torry



OTTAWA, ONTARIO, JANUARY 31, 1938

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OTTAWA, ONTARIO, JANUARY 31, 1938.

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ROYAL COMMISSION ON DOMINION-PROVINCIAL RELATIONS

OTTAWA, ONTARIO, JANUARY 31, 1938

The Royal Commission appointed to re-examine the economic and financial basis of Confederation and the distribution of legislative powers in the light of the economic and social developments of the last seventy years, met at the Parliament Buildings, Ottawa, Ontario, on Monday, January 31, 1938, at 10.30 a.m.

PRESENT:

HON. CHIEF JUSTICE NEWTON W. ROGELL....CHAIRMAN

DR. JOSEPH SIROIS)	COMMISSIONERS
JOHN W. DAFOE, Esq.)	
DR. ROBERT ALEXANDER MACKAY)	
PROFESSOR HENRY FORBES ANGUS)	

Commission Counsel:

Louis S. St. Laurent, Esq. K.C.

James McGregor Stewart, Esq. K.C.

Secretariat:

Alex. Skelton, Esq.	Secretary
Adjutor Savard, Esq.	Secrétaire Français
R. M. Fowler, Esq.	Legal Secretary
Wilfrid Eggleston, Esq.	Assistant to the Secretary

FOR THE DOMINION GOVERNMENT:

David Sim, Esq.	Commissioner of Excise
C. Fraser Elliott, K.C.	Income Tax Commissioner
R. E. Vodehouse, Esq.	Deputy Minister, Pensions and Health
R. H. Coats, Esq.	Dominion Statistician

Room 268,
House of Commons,
Ottawa, Ontario,
January 31, 1938.

MORNING SESSION

The Commission met at 10.30 a.m.

THE CHAIRMAN: Will you proceed, Mr. Stewart?

David Sim, Commissioner of Excise, recalled:

BY MR. STEWART:

Q. At the time of the adjournment on Thursday, Mr. Sim, we were discussing the suggestion of the manufacturer that the incidence of the taxes bore heavily on him, because he was, in effect, made a tax collector under the law. I think just before the adjournment you suggested he was the tax payer, he is the person aimed at in the tax and it was immaterial from your point of view whether he absorbed it or passed it on? A. Correct.

Q. The suggestion has also been made their returns involve in most cases the making of an affidavit before a notary public? A. Provision is made at each customs port for at least one officer to receive those returns, and I would say from my experience the majority of returns are not sworn before a justice of the peace but are sworn to before the officer of the department so designated to receive those returns.

Q. They may be sworn to before an officer of the department?

A. Yes. At every port there is at least one officer and at large ports there are a number of officers who are so authorized by the section of the Act to receive those returns.

Q. The next suggestion that is made is that the sales tax operates as a discrimination between one section of the industry and another section of the same industry and a number of illustrations are given to back that suggestion up. I am reading now from the bottom of page 3 and the top of page 4. The first industry that is mentioned is the garment makers; the difference between the merchant tailor

and the clothing manufacturers the tax not being payable in the first instance and being payable in the second instance.

A. There are a number of instances there and perhaps a general statement would qualify them, relating in the main to small manufacturers from whom it would be expensive to collect the tax, and provision is made by the section of the act to exempt certain small people from the payment of the tax, the theory behind it being they are so small and the amount of tax you would realise would make it too expensive and not worth while to try and collect your tax. In the case of the merchant tailor it is difficult perhaps to see why there should be discrimination of that kind. The merchant tailor in the main sells a more expensive suit than the ordinary factory-made article. When the merchant tailor exemption was put in there were a whole lot of small merchant tailors operating in garrets and attics and the like and it is very difficult to endeavor to get your tax from people engaged in business in such a small way. The general figure I have for exemption is in the neighbourhood of \$3000 of sales. It will be appreciated the profits on sales as low a figure as that are not very much more than enough to secure a good living for the person so engaged.

Q. I was wondering, Mr. Sim, if these exemptions were made at a time when the sales tax rate was one or two per cent, somewhat lower than it is today? A. Well, that is maybe so in part but the sales tax rate you will note from the fluctuated Exhibit I have filed has/ a great deal, some of these exemptions, I imagine, would be put in at the time when it was 6 per cent.

Q. In the case^{of}/job printers, that again is the \$3000 limit?

A. There is a \$3000 limit there.

Q. And that is based solely on the small turnover? A. It is just the same, if the man does realize \$3000 worth of

printing he is not making very much money.

Q. Is there any check-up on him as to the volume of his sales? A. Yes, because as you can apprehend, as soon as a man's business develops to the point where he has become shall we say, a nuisance to other people who are taxed they don't waste much time getting his name to me, and I have ^{the} to check him up with audit staff.

Q. They volunteer that information? A. Yes, and it is fairly easy to check up by a man's purchases as Mr. Dafoe knows perhaps, what his volume of business would be.

By the time a man hires another man you can be pretty sure he is getting beyond the \$3000 exemption, because it would be more difficult for two people to live on \$3000 exemption than for one.

Q. The sheet metal workers, is that the same? There is a \$3000 limit? A. No, there is no limit there.

Q. Just the small as compared with the larger? A. Yes. There is a determination made on the assumption that the man is perhaps too small to bother with.

Q. The canning industry seems to be based somewhat on a different consideration, the difference between the farmer canner and the industrial canner, if I may use that term?

A. Yes, there is a very proper exemption under the Act for other farm produce sold by the individual farmer or settler, and years ago that exemption was construed to cover farm produce when it was put in cans, nothing added to it except the can. Under that exemption a fair amount of home canning, so-called, has sprung up particularly in the province of Quebec and in a lesser way in the province of Ontario. It does not represent any substantial portion of the total amount of canning business done in Canada, but it is deemed to be exempt under the Act as long as the farmer cans his own produce, but the moment that the farmer

purchases produce from someone else to can it he becomes of course a manufacturer and we put him under license.

Q. I suppose in this case the "Volunteer Army" ^{who} would call your attention to deviations from the exemptions would not exist? A. Well, we do hear from the canning companies on occasion and they complain to us that certain farmers perhaps are selling quantities which would appear to be in excess of what they raise themselves, and we cause inquiry to be made and on occasion we have to put them under license. There is an association, I think, of canners from whom I receive the odd communication.

Q. The exemption does not apply to cooperatives? A. No, it is the individual farmer. I will read the exemption to put it on the record; it is found in schedule 3, page 36.

"Other farm produce sold by the individual farmer
of his own production,"

so it would not extend to cooperatives, Mr. Stewart.

Q. The next point that is raised is the fact that there is a tax on fuel, which really covers fuel oil, while the same does not apply to coal? A. Well, there is a question of policy involved here, Mr. Stewart. There are a number of reasons behind this exemption but principally it is a matter of revenue that is involved here, there is a considerable revenue involved in the tax on fuel oil; there is a growing use of fuel oil as fuel in domestic use.

THE CHAIRMAN: There is a tax on the fuel oil used for domestic purposes but no tax on coal in use for domestic purposes?

MR. SIM: That is correct, Mr. Chairman.

THE CHAIRMAN: It is not to discourage the use of fuel oil.

BY MR. STEWART:

Q. Possibly there are other reasons for it not applying to coal? A. Shall I put it this way; there are specific

reasons for applying it to so called fuel in liquid form. I might just perhaps suggest to the Commission that at one time it had been hinted we might be faced with the possibility of claims for refunds on fuel used in automobiles - gasoline, and it seemed very necessary to close any door of that kind. Q. And the last specific instance referred to by the manufacturers concerns the price of goods used in the process of manufacturing that carry in the price is included a large proportion of freight, the inward freight on raw material. A. Well, of course, that is one of the difficulties about a country that is as large as this, where raw material may be brought from one part of the country to be fabricated in another. There is no exemption in the Act for what is styled here inward freight. There was a trial case some years ago on that point, - the Dominion Shuttle Company, I think it was. These people were bringing wood from British Columbia and making shuttles of some sort in the province of Quebec. They endeavoured to get this exemption for the inward freight but the court held it was part of the costs of manufacturing the goods, and it was not deductible from the selling price of the goods on which the tax was levied. But this is an argument which works both ways. I would perhaps give some examples of raw material originating in the West being brought down here; lumber from British Columbia, for instance, which might be brought down here to be fabricated. Fir doors, I understand, are made in some parts of Ontario from B.C. fir, and there is a certain amount of colored shingling manufactured.

Then wood conduit pipe, in the main the wood for that comes from British Columbia. Then in the reverse, going out West, mostly in the metal industries, corrugated sheets may be taken out there for fabrication, so that it does work out, I think perhaps, 50 - 50, - it works both ways

THE CHAIRMAN: So we may understand the situation,

the B.C. fir shipped East for building or other purposes the purchaser in the East has to pay sales tax on freight as well as on the fir.

MR. SIM: Not if it were for building purposes, Mr. Chairman, but if it were taken for manufacturing purposes he would have to pay on the freight, the freight would be included in the selling price. But in the case of a finished article, completely manufactured in British Columbia and shipped down East it would be possible by a system of invoicing to invoice the price of the goods on which the sales tax would be computed and show the freight as a separate item on the invoice when it would not be subject to the tax.

THE CHAIRMAN: At present I don't see why a man who purchases B.C. fir for use here should have to pay sales tax on freight. I thought sales tax was on the purchase price.

MR. SIM: Well, he really doesn't, Mr. Chairman; I mean he doesn't pay on the lumber coming down from British Columbia, as I pointed out, except in the case of a manufacturer bringing the raw lumber down here to process.

THE CHAIRMAN: That is what I mean. Suppose a man buys B.C. fir in the timber and brings it down to manufacture why should he have to pay sales tax on that, when the man who brings down the manufactured article does not have to pay sales tax on it?

MR. SIM: The freight, Mr. Chairman, is simply added in with the cost of the manufacturing. There is no exemption for that freight in the selling price of the article. I mean why should you be appalled at being charged freight on that lumber coming from British Columbia to be made into conduit pipe in Ontario, and not feel that something should be done to the freight on all kinds of raw material brought in by manufacturers from the four corners

of the world to be processed in Canada.

THE CHAIRMAN: I am not appalled, I am just wondering why. Well, then, suppose a man buys an article; it is raw material purchased in England; he has to pay the sales tax on the price plus the freight to the point of delivery.

MR. SIM: Yes, on raw material brought in by a manufacturer for processing there is no exemption for the freight from sales tax, it is part of the cost of manufacturing. But in the case of the finished article if the freight is billed as a separate item it escapes the tax.

BY MR. STEWART:

Q. You have already dealt with corrugated sheet metal, that applies in converse so far as geography is concerned?

A. Correct.

Q. The next item that is referred to in the Manufacturers Brief is the statement that sales tax hampers export trade - I am referring to the first column on page 5- owing to the fact that it is included in the calculation in the United States and England for duty purposes whether it is in effect charged or not in Canada. A. Well, I think that is the general practise; it certainly is the practise in so far as imports into Canada are concerned. Working the opposite way, we can take the fair market value as including any costs like these, with some exceptions. I think during the time of the special processing tax in the United States we made some exemption in Canada, but it is the pretty general practise to take the fair market value as including any of these taxes.

Q. It is incidental to the application of the principle of the home consumption price? A. Quite.

Q. The fair value in the market of origin. A.. On that point, Mr. Stewart, I believe there has been constant

representation made to the United States to disregard this sales tax at any rate in so far as the sales between manufacturers are concerned of raw material because that type of sale is exempt by quotation of license in Canada, but even there I think there has been some difficulty to get the United States' people to accede to that.

Q. Apparently they haven't made any progress in that respect. Now, the last day you suggested that the only point on which there was some duplication as between Dominion and provincial tax structure was in connection with the stock transfer tax in Quebec and Ontario. There is an act in Saskatchewan, is there not, that is somewhat in the nature of a sales tax. A. I am glad you asked that question because it enables me perhaps to indicate the difference between that form of tax and our sales tax. The tax in Saskatchewan is known as the Education Tax, but it is in effect a retail sales tax of two per cent. There is a similar tax imposed by the city of Montreal. These are the only two other sales taxes, so called, in Canada. But there is an essential difference between that form of sales tax and ours; perhaps the prime difference is that the tax in Saskatchewan and the tax in Montreal is collected from the purchaser by the retailer, whereas our tax is collected at the source, - from the manufacturer or producer, or the importer, as the case may be. So that we are dealing in our sales tax with an entirely different set of people; we are dealing, as I have indicated, with the source and we are collecting our tax at the point of final manufacture. These other taxes are collected at the final stage just as the goods are being handed to the consumer. I am glad to bring that out because I want to indicate to the Commission that there is no overlapping and that we are not collecting a tax from the same group of people as the provincial and the city of Montreal authorities.

Q. That brings me to another point, in effect, the object that is subject to the tax under the Saskatchewan Act and in Montreal has already paid the eight per cent sales tax of the Dominion, has it not? A. That might be so, unless it were in itself exempt under one of these items in schedule 3.

Q. Have you any information as to the incidence of the Dominion sales tax, whether it is usually passed on or not. A. I think, perhaps, in most cases it is added to the invoice, but I am quite sure of one thing, it is passed on finally to the consumer, who pays all these taxes.

Q. Whether as a specific item or in a general way?

A. Or perhaps in the price. Yes, I am quite sure of that.

THE CHAIRMAN: The manufacturers in their brief indicate that it is passed on to the wholesaler and then the wholesaler adds his profit and passes it on to the retailer and he adds his profit on the total cost, so that the ultimate consumer pays not only the eight per cent sales tax but he pays the profit of the wholesaler and the manufacturer on that portion of the cost.

MR. SIM: That is quite true, Mr. Chairman, I believe.

THE CHAIRMAN: Which makes the cost to the ultimate consumer substantially higher than the amount received by the government.

MR. SIM: That is quite true, but that enables me to say one thing else if I may, Mr. Chairman. The rate of sales tax is not eight per cent by reason of the system of allowing the wholesale discount to the manufacturer; the wholesale discount is provided by regulations and is an attempt to equalize the tax. It is obvious if you collect a tax on the selling price that the same goods distributed in different ways would bear different rates of taxes. A classic example of that, I think, is the case of gasoline, where one large company may operate

service stations; the final selling price of those goods is when you or I drive up with our car to buy gasoline but we don't get a sales tax on anything like that figure, it is obvious that would be unfair inasmuch as gasoline is imported in wholesale quantities and at a very much lower price than we pay. Gasoline is also sold wholesale by companies operating in Canada, and they would be paying on a much lower basis than the company that is operating its own service stations. So an attempt has been made by regulation to establish a wholesale discount which has the effect of reducing the value for tax to the wholesale price and on the average that discount, Mr. Chairman, would run about 20 per cent to our industries, so that the 20 per cent of 8 per cent would give an effective rate of around 6.4, that would be about the effective rate of tax. Now, with that 6.4 being collected at the source it naturally follows in the ordinary run of business that each succeeding hands through which these goods will pass will add their percentage to a price which will include the tax.

COMMISSIONER ANGUS: Mr. Sim, in speaking of the Saskatchewan sales tax which is the retail sales tax it must be so for constitutional reasons; I mean it would be an indirect tax if it were imposed as your taxes are imposed.

MR. SIM: That is quite right.

COMMISSIONER ANGUS: What I wanted to ask was this: Do you think it would be a more efficient arrangement if the provinces were allowed to impose it in the same form as the Dominion tax, and combine the collection.

MR. SIM: I don't think that would produce very much money at all in a province like Saskatchewan as you can appreciate there is not a great deal of manufacturing or producing, and I don't think it would be very effective for that reason.

BY MR. STEWART:

Q. And the provinces, or most of the provinces at any rate, have gasoline taxation. What is the difference between the form of imposition of that tax and the Dominion sales tax? A. I can not speak authoritatively on the gasoline tax but I should think that perhaps you might style this gasoline tax of the provinces "excise tax". The sales tax, of course, is an ad valorem tax whereas those are specifically so much per gallon, they are not very much different from our excise specific tax.

Q. They also are subject to the difficulty of imposing these taxes on account of their restrictions to direct taxation? A. So I believe. I think they have had to resort to certain expediencies in order to make the tax effective.

Q. Mr. Sim, I think I put to you last day the criticism of the Canadian Manufacturers Association, or the suggestion rather, that the sales tax should as financial conditions improve be gradually reduced and ultimately discontinued because it is not a satisfactory form of tax. I don't know that you quite finished giving your views on that criticism. A. No. I was saying when we quit last day I was here that I was glad to answer that question because I thought that the sales tax was a fair and equitable form of taxation. It is based on ability to pay. No one is subject to it unless he makes purchases and the necessities of life are in the main exempt. It is certain in its application, because it is collected at the source, and it is levied at the time most convenient for payment, returns being made each month of the taxable sales for the last preceding month, so that on the average forty-five days elapses between the time of sale and the time of payment. I inferred that it was inexpensive to collect, the cost being something less than 2.71 per cent in the last

fiscal year.

These four points, - ability to pay; certainty of application; levied at a time most convenient for payment and inexpensive to collect, will have a familiar ring, because I recall to the memory of the Commission that they are the four requirements of sound taxation laid down by Adam Smith in the "Wealth of Nations". In addition I think it can be said that there is comparatively little opposition to this tax from the public at large, because it is well established and the people are educated in this form of taxation.

It has a broad application, being based on the sale of all goods, with the exception of the necessities aforementioned and a proper exemption which is provided for the implements of primary production. It does not bear heavily on the sale of particular commodities, but by embracing practically all sales ensures equality of taxation.

It is a flexible tax and with a stabilized structure it can be used to produce a greater or lesser amount of tax depending on government requirements, without upsetting business unduly. If a greater amount of revenue is required it can be secured without bringing under taxation a new group of uninformed taxpayers.

In short I know of no other tax which will provide as much money at as low a cost. It ensures the greatest yield at the lowest cost.

THE CHAIRMAN: How is it applied in other countries, Mr. Sim, are you aware?

MR. SIM: I think in the United States, in the main, it is imposed by the States as a State tax. In Germany it is a federal matter, but it is carried down to a degree that we do not appreciate in this country. I think

the strength in our taxes lies in the exemptions that exempt those necessities of life; we exempt the farmer, we exempt the small person. In some of these other countries I understand, they go to great extremes to get their taxes from very small people and also I may say I understand their sales tax is more in the nature of a low rate turn-over tax, a tax which bears on every purchase or sale and not collected as we have it here, at the source. From what steps we have made I may say, perhaps without being unduly biased, I really think this is the most effective way of collecting a sales tax because you have to deal here with people who are fairly substantial, who have books and who are people with a capacity to pay.

THE CHAIRMAN: You have perhaps helped some people to set up a set of records.

MR. SIM: Yes, There is provision made for severe penalties for failure to keep books. Our system of taxation was taken up by Australia. We were asked a few years ago to send one of our best men down there, and he helped to establish the Australian sales tax, which I understand is working out very successfully. It is based pretty well on our system. We were asked a year or so ago to send a man down to South America where they were introducing a sales tax, - in Brazil, I think it was.

COMMISSIONER DAFOE: Is Canada a pioneer in working out a successful sales tax, Mr. Sim?

MR. SIM: Well, I wouldn't say we are the pioneers because sales tax has a very ancient history, Mr. Dafoe, but I would think that we have led the way in one or two particulars in the matter of sales tax. This tax is an interesting one because it has been a problem of trial and error and it has been subject to constant change as certain difficulties were experienced and then were, I

believe, overcome until today we feel perhaps a certain amount of pride.

COMMISSIONER DAFOE: The tax is being constantly changed as being regressive, I judge from your evidence. You think the exemptions have been very carefully arranged so as to remove the tax from that charge.

MR. SIM: No tax, of course, can be popular, Mr. Dafoe, but I think perhaps this bears as lightly as any tax of this nature could on industry. The provision is made for the exemption on necessities of life and of the implements of primary production.

BY MR. STEWART:

Q. Mr. Sim, it has been suggested to the Commission that business and industry would be greatly assisted if all Dominion regulations - Dominion and provincial regulations including departmental regulations could be published say annually so that business and industry would know exactly what situation they would have to meet in the various departments. Are the regulations of the excise devision published. A. Freely. We are most anxious to get them in the hands of everybody who is subject to the tax. We make it a point when we revise a regulation, which we do at regular intervals, to see that they are sent to every licensee, of which there are some 22,000.

Q. And these are published when the changes are made in the pamphlet form. A. They are published in pamphlet form, and if any emergency arises a supplement will be issued, and it is consolidated from time to time; I think the last consolidation was September 1936.

Q. Has any difficulty arisen so far as the Department of Excise is concerned. A. I have had no complaint about the distribution of the regulations. In addition, of course, the associations get out a lot of educational work

in the matter of the tax. The Canadian Manufacturers got out an excellent publication which of course has not any official seal on it but it is a very fine piece of educational work in the matter of the tax. for the members.

THE CHAIRMAN: Are there any points, Mr. Sim, on which you yourself wish to add in regard to the statements you have made.

MR. SIM: I don't think I have anything else to add, Mr. Chairman, except to thank you for the courtesy you have shown here.

COMMISSIONER Mac KAY: I suppose your organization would not be suited to collect such things as provincial sales tax?

MR. SIM: That is the point I really wanted to put across when I made the answer that I did. You can appreciate that we are dealing with an entirely different group of customers.

COMMISSIONER MacKAY: That is to say, your organization would not be suitable for collection of say education tax or hospital tax or gasoline tax?

MR. SIM: No, we would have to organize a new branch to do that sort of collection.

(Page 3795 follows.)

THE CHAIRMAN: Mr. Elliott, I understand there is some point you would like to add to what you said to us the other day.

MR. C. FRASER ELLIOTT, K.C.: I do not think it is so much a point as a further development of matters that would be of interest to the Commission as brought out in discussion between Mr. Fowler and myself. If the Commission care to hear it I would be very happy to put it before them.

MR. STEWART: Mr. Elliott, you attended a meeting of the taxation branch, was it, of the League of Nations?

MR. ELLIOTT: The fiscal Committee of the League of Nations last October.

MR. STEWART: Yes, and you and Mr. Fowler felt that there were points which arose in the discussion there that might be of interest to the Commission.

MR. ELLIOTT: Yes, Mr. Fowler thought that some of the matters that were there discussed and matters that were brought to my notice while there generally would be of use to the Commission and, if it pleases the Chairman, I will develop the matter.

THE CHAIRMAN: Well, if you would proceed, when you reach the point where they pass beyond our scope, I will let you know.

MR. ELLIOTT: I hope to be so clear and explicit that they will never get beyond that, because I know that intricate though it may be you will always understand it, even though my explanations will be inadequate.

Attending the Fiscal Committee of the League of Nations I was privileged not only to meet men who are naturally skilled and versed in matters of taxation but, also to sense what was developing among the various nations. And it is my purpose to indicate to the commission just what the trend has been, say, since the war, with the belief

that if that is rightly followed in the matter of taxation in particular that it might be of some use in guiding this commission in its very important work as to what kind of amendments we need, not only for today in the fiscal economy, but looking ahead probably a few generations.

Since 1914 there have been two very striking and major changes in the taxation authorities of the various nations. One is the income tax, which has reached unprecedented heights since 1914 and in all the Anglo Saxon countries it is assuming the major position in their revenue collecting departments. The next major development, and an entirely new one, is the sales or turnover tax that has taken place since 1914. I am not going to dwell on that, my colleague, Mr. Sim, touched upon it. But I again suggest that it was an entirely new measure since 1914 with the exception of some historical interest in the time of Augustus in Rome, and in Naples, and in the middle ages. But, it is entirely a new measure and in the Latin countries has taken the major place in securing revenue for them. It is, as my colleague has stated, a ready measure for securing large sums of money.

Of those two factors I am going to deal with the income tax in particular, and in order that we picture the growth from 1914 I am going to indicate one or two of the major changes in the major countries. Germany, for instance, under the Dawes Plan of 1924 scrapped everything she had before under the expert advice of those gentlemen. There was an Imperial tax scheme of 1913 that was important but it was entirely scrapped, and the Dawes Plan of 1924 came into force. Income tax was one of its main features and sales tax was one of its main features. And in 1928 the

major part of its revenue was secured to meet the obligations that the allies were imposing upon the citizens of Germany. Then we had France. France in 1920 appointed a committee of experts and they brought their financial affairs on to an entirely new and different plane from what they had been before and reached out their income tax and sales tax in a heavy and dramatic manner.

THE CHAIRMAN: Of course, France had never imposed an income tax at all comparable with the British income tax up to that time.

MR. ELLIOTT: No, never up to that time. They had a form of income tax at the source but nothing comparable with the British income tax. I am answering the question specifically.

Then came Austria-Hungary. When they wanted to secure an international loan a financial committee of the League of Nations waited upon those countries, examined them and put their affairs on an entirely new basis. Again income tax and sales tax, sales tax entirely introduced, became the major instruments for collecting revenue.

And then in 1913 -- and I am just going to mention changes that took place in 1913 -- United States never imposed an income tax previous to 1913 legally. True, they had what they called the corporation tax, but it was unconstitutional. And, in 1913 they amended their constitution so they could put this powerful instrument, the income tax measure, into the hands of the nation as a nation. It had been imposed in some of the states, very few at that time, but they wanted the power to impose the income tax. I am mentioning this because I am going to show the Commission the conflict that is in the offing, using these various measures to tax each other's exchequer. That is going to be my ultimate point, and the need for

Canada is going to be: Let us put our house in order to meet the same kind of competition that I see in the offing.

Then, Italy of course reestablished its finances and taxation system after the march on Rome of 1922.

THE CHAIRMAN: Have you the basis of Italy's taxation system?

MR. ELLIOTT: I have not it with me, but I would be very glad to send it to the commission. I have only some notes with me that I made mostly yesterday. They are in my own handwriting so if I stop and stumble you will know that is common to us all, or at least, that is assuming that some people here write as badly as I do.

In 1918 Great Britain consolidated its Income Tax Act and it was quite an improvement on what they had long been used to since 1842. I mention it just to show that since 1914 practically every major country in the world has re-set its financial structure and reinforced its financial instruments so as to use them in the new developing economic era. All these countries that I have mentioned have free and unfettered control of the manner in which they use these laws in relation to other countries and in relation to their own nation or their own nationals. I am going to leave the thought with you now "have we unfettered control of our income tax?" We have provinces that can impose income tax, let us say, in the rear; if we are facing outward to the nations of the world, and we have to carry on this international battle, at the same time fighting a rearguard action if our provinces are going to impose income taxes across Canada. I suggest you cannot use a financial measure to advantage if you find that nine provinces are using the same kind of an instrument and those provinces are recognized abroad by the nations and there is no reciprocal allowance for the taxes

paid, in other words, to the provinces. So, the broad burden is on the taxpayer and he is not relieved from taxation, and if the taxpayer is being overly-burdened he is going to take the capital away and that hurts our revenue. And while this change is taking place in the world, what was the situation just prior to 1914? Let me indicate: In 1914 the nominal rates in Great Britain were 8 per cent, that is, its income tax. In the United States it was 7 per cent, and that was the beginning of the new 1913 law constitutionally made possible. In Germany the nominal rate was 8 per cent. No one imagined that within five years from 1913 that the maximum rate in the United States for example, and it is only an example, would be as high as 77 per cent. It shows the enormous rise of these measures and the place they are taking internationally.

In 1909 for the first time Great Britain put on a graduated rate of tax. Sir Joshua Stamp in 1921 described the change which I have outlined particularly relating to the graduated rate of tax; "The progressive taxation of income is now wellnigh universal and it is difficult to realize that only two decades ago it was still looked upon askance." But, it had advanced thus in this country. That, I think, is a striking statement by a man of undoubted authority, that until a few years before the graduated rate of tax was looked upon askance. It indicates the rapidity with which we are moving into some sort of new era. In 1929 we used to talk about the new era when we would have two bathrooms, an automobile and time to play, but the new era seems to be more work, more money, and more money to pay the government, and the one that can get his money by the easiest methods is the best off. We are coming down to the stage where these fiscal measures are to be used as permanent instruments and they must now

be considered in relation to almost fixed conditions that have been scientifically considered, and we are about to make our changes. At least, I am so apprehensive about it, and so anxious about it, that I want to put my ideas as favourably as I possibly can to this commission, due to the position which I hold and, perhaps, being more closely in touch with these things, I am anxious to be of the greatest possible help and if I overshoot the mark in my desire to be of help you will kindly draw me back.

Having these new income tax methods well established throughout the world on these scientific bases, what are the international aspects of these measures: First, there is double taxation. Of course, double taxation, prior to 1914 was not even talked about. It was more in theory and it was not in fact. But, now we have double taxation.

Secondly, an international aspect is the withholding at the source. I leave the thought that the withholding at the source from net income cannot but go beyond to the withholding at the source on gross income. That is a dramatic way of stating it. For example, I reside in Canada, I receive dividends from the United States. The money that I have to buy those shares may have been borrowed. I have got to pay interest on it. The interest is at 5 per cent, the dividend I get from the United States is at the same rate, or perhaps let us make it more businesslike, say I get 8 per cent yield on the investment. Five per cent is taken off at the source in the United States. It is not an 8 per cent yield to me at all, at best it is the difference between 5 and 8 per cent; it is a 3 per cent yield. It is not taking the special security charges into account at all. In other words, that taxation at the source was a tax on gross yield. I suggest to this committee that when a nation charges a tax at the

source on gross and the amount that is paid at the source is allowed as a deduction in the country of residence, you are not taxing the individual at all, you are taxing the other exchequer.

THE CHAIRMAN: You are taxing what?

MR. ELLIOTT: The other nation's exchequer, because what the individual would pay into the domestic exchequer or his country of residence would be affected by reason of the reciprocal allowance for what is paid, broadly speaking, a deduction of what he would otherwise pay into his own exchequer. Have I made it clear? Let me say it again: Five per cent is taken off at the source in the United States on gross yield. Let us change the example slightly and say that that five per cent is taken off, the eight per cent is on my own money, I didn't borrow it at all, so that I get an 8 per cent income on my investment. Being in Canada I had to declare my total income and I do, and in calculating my tax I include in that the dividend referred to and then I say because of the reciprocal arrangements between the United States and Canada the tax that I had to pay on the calculation to the Dominion Exchequer is not payable to them. Why? Because, I have already paid at the source, and what I would pay to the exchequer in Canada is reduced by what I have paid in the United States. It does not cost me a cent more, the place of payment is changed, I paid to the United States Exchequer instead of paying to the Dominion Exchequer.

THE CHAIRMAN: Mr. Elliott, if the tax in the United States is at a higher rate than the Canadian rate, are you allowed the full deduction?

MR. ELLIOTT: No. Only up to the equivalent of the Canadian tax. You cannot eat into the taxes that are

otherwise payable to the dominion on my other income, but up to the rate that I do pay now I do not have to pay again. Let me develop that question a little more. Go back to my first example, the net yield to me was 3 per cent on my investment and an 8 per cent yield in the United States on borrowed money and I paid 5 per cent on it. I get a net yield of three per cent. I have to declare that. Naturally, 5 per cent deducted on a gross yield is always greater than a 3 per cent yield taxed at our normal rates, even at graduated rates. So that my obligation to the Dominion Exchequer is always or nearly always wiped out.

COMMISSIONER ANGUS: Do I understand, Mr. Elliott, that the Dominion will allow you to declare your net income, that is, three per cent in the net?

MR. ELLIOTT: Certainly, that is what is taken.

COMMISSIONER ANGUS: And then deduct something which is greater than the tax on the income so declared?

MR. ELLIOTT: Not greater, equal to.

COMMISSIONER ANGUS: Yes. I mean, it cannot be applied as against other parts of the income.

MR. ELLIOTT: No. What you really do, in fact, is wipe out my tax on the United States income, on my example. We put on 5 per cent tax at the source in 1933 and I attended in England with Dr. Clarke, Deputy Minister of Finance, and we were doubtful if they would allow the tax as a deduction from the tax payable by their own U.K. citizens. Why? Because, we thought it was a gross tax. But, they allowed the tax as a deduction. That is, the tax that we take at the source at 5 per cent is always allowed to the United Kingdom resident, so it does not cost him any more. All that is paid into our exchequer is the 5 per cent we take off, instead of that man paying

it into the U.K. Exchequer. Now, I begin to give you the idea, I hope, that this is an international instrument and because they have all raised them to the same height and they are all putting on taxes at the source, we must have this instrument in such a manner that we can deal with it internationally, unencumbered, unimpeded, undamaged in the rear, because those things that I have mentioned are allowed, the dominion tax at the source, they are not allowed by the provinces taxing on whatever rates they do on business net income. None of them tax on interest and dividends yet. I correct that statement, they do tax on interest and dividends to their citizens, but not to the non-residents. But, so far as the net income is concerned the man paying taxes there, the tax, he pays to the province; is not recognized in any of the other countries of the world, and that means it is a straight burden to the taxpayer himself. It is double taxation and he is impinged upon clearly.

COMMISSIONER MACKAY: Just pardon me a moment, Mr. Elliott. This system of taxation at the source is becoming general not only for personal income but for corporation income too.

MR. ELLIOTT: It is for corporation income also. It is for both.

Another international feature of the income tax law is these reciprocal allowances which I referred to in dealing with the withholding at the source, but I just want to enumerate them so the committee will have them before them. A developing one, which is not understood, I will indicate as fiscal evasion. There is a movement to eliminate fiscal evasion in all countries. This was discussed at the fiscal committee of the League of Nations and a solution suggested. All nations related two things: First, double

taxation is a powerful motive to evade taxation. Everybody resents two taxes, and everybody agrees with that. Therefore, where double taxation exists there is a strong motive to minimize it or evade it, and if you get into the channel of minimization it is easy to move into the second phase, even to evade single taxation. Therefore, recognizing double taxation is a strong motive to fiscal evasion, the League of Nations in 1927 drew up a model convention for the avoidance of the double tax and the nations of the world have accepted that model convention and there now is well over 140 double taxation agreements, bilateral conventions between the nations.

THE CHAIRMAN: Would you file a copy of that convention as an exhibit? Have you a copy of the draft form of the convention?

MR. ELLIOTT: Decidedly. I will be very happy to give it to the commission.

MR. FOWLER: That will be Exhibit 135.

EXHIBIT NO. 135. Draft form of model convention for avoidance of double tax drawn up by the League of Nations in 1927.

MR. ELLIOTT: Secondly, so far as the nations can cooperate to avoid fiscal evasion, they are compelling those who have the ability and income to pay a tax to pay it, and to the extent they pay what they are not allowed to evade, to that extent you and I and everybody else who is taxed are relieved, to the extent that they are allowed to evade you and I and everybody else are that much more burdened. Therefore, that is a common international problem that finds a sense of ready cooperation. In furtherance of that, the fifth international feature is a tendency towards mutual assistance by one nation to another

through the exchange of information and mutual assistance in the enforcement of judgments. Mr. Chairman, as you will appreciate, the Committee of Nations is standing in jeopardy of its long established non-recognition of revenue laws because the force of economic conditions is moving the Committee of Nations to do things they never did before.

THE CHAIRMAN: Do these conventions provide for the enforcement in one country of a judgment recovered in another?

MR. ELLIOTT: The conventions to which I refer are not fully developed. I can tell you there is a convention existing between Belgium and France which on explanation by the members from those nations at the committee was most interesting because it fitted in so satisfactorily and handily with such a plan and they both joined in giving it great praise and they seemed to realize they were getting not only the taxes that belonged to them but the taxes they had to spend money to get a judgment on and they were getting the tax and judgment from those who were trying to run away.

Therefore, Mr. Chairman, I have tried to show you, and I will now sum them up, the five points which make international harmony essential. (1) Double tax; (2) Withholding at the source; (3) Reciprocal tax allowances; (4) Fiscal evasion, and (5) mutual assistance by way of exchange of information and enforcement of judgments. On the exchange of information, as a matter of fact, the ice has been broken between the United States and ourselves in relation to that five per cent benefit which they graciously gave to us as a neighbouring nation and we said: "You can rely upon us. We are not going to allow Canada to be a base for evasion fraud on the additional 5 per cent."

Example: The United States has a dividend coming to a Canadian addressee of \$100,000.00. The tax at the source, if that \$100,000.00 went to any other country in the world, would be \$10,000.00, or 10 per cent, but the addressee being in Canada, they only take off 5 per cent. Now, it would be a useful thing if a person in any other country in the world could say: "send me \$100,000.00 to an address in Canada", and the addressee in Canada simply sent the money abroad as money, not as dividend, not as interest, but simply as money transferred in the way it is easily done these days. We say, "No, we will tell you who gets the money in Canada and what they do with it, and we give you that information to assure you that Canada is not going to be used as a base for evasion fraud when you grant the special concession." So the ice has been broken on exchange of information.

THE CHAIRMAN: On the question of evasion, is there any understanding as to the term of residence which a man must have in one country? I have understood that it was possible for a man having residence in three countries to move from one to the other, live a period of time in each and not live in any one country long enough to be subject to taxation. Is that possible?

MR. ELLIOTT: In a few sentences I will give you the history of the whole thing: Before 1900 the law of England which leads in all these things because it was the first law, was that if a person is resident in a country, because he is resident, the element of time does not matter. Because he is resident he is subject, like any other resident, to the full impact of that law on his total income wherever it appeared. That is point one. Point two, he may have an added residence. He might have a residence in England, in Scotland and in Ireland, and have a fourth residence,

a chateau if you like, in the south of France. On account of the residence in four or five countries he would be liable because he could actually use it in some period of the year. As the law then stood it did not matter very much respecting income tax, as I indicated to you, but if there had been a tax as the law then stood he would have been liable to tax on every one of them, and without relief for double taxation by reciprocal allowances, because they did not exist. However, the statute law of the country was altered and it said: any person that is a resident for a certain number of days, usually half yearly, that is half yearly consecutively or half yearly in broken allotments which in the total sum equalled 183 days, if he was there more than half the year he was taxed. That is point two. Point three, a man is resident in a country and he leaves it for a whole complete year and he never comes back. Now I am getting on to questionable ground. But the law said, as I understand, that a person was resident or ordinarily resident. What is the meaning of the words "ordinarily resident"? There are two kinds of travellers: one is a man who is a tramp, and today sleeps in a barn and tomorrow under a hay stack. There is the rich traveller who goes to the great hotels and has all the comfort and conveniences there. They are both tramps but they must be related to some plan, there must be an income tax scheme for them. He is a tramp but he has got to pay tribute on his ordinary residence. Lord Cave says in one of his judgments that this person who is absent for all the year must be ordinarily resident and pay tribute to that country. The question of residence is a new one, but today there are gradations of time that the person must be in the country and residence is slowly giving way to the breaking down of time. The two are associated and I can

only say to you, Mr. Chairman, that there is no answer to that at the moment, it is in the making. I think that is the summary of the position on residence.

Let me come back in my minutes. This question of double taxation which arose in the world was so vicious in one particular aspect that it called for immediate decision. There was a kind of company which did business in every part of the world and it meant if it was going to be taxed on the business it did in these particular countries business was impossible. That was the shipping companies. Ships came to every port in the world and they were loaded and unloaded and stored their goods and so forth. They were doing business and everybody was glad to have them carry on business in that country. The shipping companies were so situated that with the heavy rates of income tax since 1914 they could not do business. All countries entered into this agreement that all shipping companies shall be liable only in one place and that is the place where they are organized. Sixty such agreements are in use today. That shows strikingly the effect of double taxation. That kind of company was so bad that it was not dealt with by double taxation. It simply means "hands off these companies or they cannot do business at all." Consider, if the committee is interested, has agreements with those countries, and if you like I will put it in.

MR. STEWART: That will be exhibit 136.

EXHIBIT NO. 136: International
agreement respecting
taxation of shipping
companies.

MR. ELLIOTT: Now, I am dealing with the international aspects and I am dealing with the first one, double taxation. And I have pointed out that that was avoided

by the shipping companies in the manner described, and I mentioned this before because the question that was asked, the manner in which it was dealt with through the bilateral agreements. There were 140 of these bilateral agreements and they were based on that model convention which I am going to put in, initially drawn in 1925, finally approved in 1927.

The next international feature that I would like to deal with is the withholding of the tax at the source. This, of course, is a phase of double taxation. I have indicated that it is frequently on gross income but all nations of the world that impose income tax - and there are over 46 nations of the world that are now imposing income tax, while I might say that prior to 1920 there were practically none except a few that I have mentioned and they were so low that it did not matter, so that one might say that in the sense of being a matter of concern, any nation in the world of any civilized standing imposes an income tax - all these countries, or substantially all of them, impose a tax on dividends and interest which have a source in their country. Patents and royalties are also subject to ready taxation at the source. There is not much more to be said about that than to say -- yes, there is much more to be said. I think the committee would be interested in this: Great Britain alone had this income tax and took a toll at the source but she also taxed in full dividends and interest coming from abroad that came home. She got the yield on that from the person that was resident in her country. In the country of origin there was no tax at all up until 1910, in any event 1914, so that England exacted tribute, without allowances or consideration because there was no need for it, from all parts of the world. Yet, when any person in another part

of the world had an investment in England for all those years she took substantial tribute at the source, because that is her system of taxation. That was an extremely good system. And then when the source, if I may call it, of double taxation arose the question was; Who has the primary right to impose the tax? Is it with the company where the person resides? Or is it at the place of origin? Great Britain, supported by the International Chamber of Commerce which initially laid down this resolution in the 1922 Convention at Rome, asserted that the place of domicile or residence has the right to tax primarily, that is where the capital comes from, and invested abroad the yield comes home and is there taxed and if any of the other countries wanted to impose a tax they should allow something for what has already been paid at the place of residence. That was forcefully put forward, but it is losing ground and I would almost say has lost ground. Why? Because the place of origin said: "We take the tax or you don't get it out of the country." So in effect the place of origin has now the primary right to impose the tax and what has been taxed at the place of origin has to be allowed in part by the place of residence imposing their tax. That same international convention realizing they might not be successful in that presentation said in their resolution something like this, that the country of origin should not unduly impose a tax or make a heavy tax or a large tax. In other words, they should keep their rates down. Now, Mr. Chairman, that is a pious hope, and that is the biggest thing that I can bring before the Committee, this new movement of taxation at the source, not at that mild rate but the ever increasing rate that is going to be taken at the source, and no one can do anything about it at the place of residence except withdraw his capital

And so long as the country that is taxing at the source does this, states, "you will always get a profit from this country, come in and make a profit, it is wide open, but so long as you make a profit which is a reasonable yield on your capital, we are going to take the balance." and investments have to be made some place, you cannot concentrate them all in one country, and so capital will come into any country that leaves some yield to the person investing who resides in another country. I do not know that I would prognosticate anything, that is not my function, I am bringing facts to this commission. If the facts develop a direction they must do it, but it is not my duty to advocate any direction for them. I would be sorry if these remarks were interpreted as advocating something. I know, at least in my own mind, those facts do indicate something but I do not want to be taken, as a civil servant, as advocating anything, I am giving the facts. But look at them: taxes at the source in every country. It has been increasing and increasing and where is it going? Look at the United States. I think it is three years ago or less, they never had taxes at the source at all and now they put on 10 per cent. I am sorry I have not at my finger tips the amount of money they got. And every dollar that they got was taken out of the exchequers of other countries, because with most of the other countries they have reciprocal arrangements. The taxpayer did not suffer. The foreign exchequer suffered. It is an international measure and we want to so construct our finances and make our arrangements so that in the international outlook hereafter we are going to be in a position to deal strongly with this taxation at the source. The League Committee has referred to it as taxation at the place to which one owes economic

allegiance. That is, that part of the total taxes paid by each person ought to reach the competing authorities according to the person's economic interest in each authority. In other words, to whom does he owe his economic allegiance? And in a word that is the place he pays his tax and that means taxation at the source. There are four elements in this economic allegiance. That is, the origin of the wealth, the situs of the wealth, the enforcement of the rights respecting wealth and the residence or domicile. The allocation of economic allegiance assigns all corporeal wealth to the place of origin. In other words, the fixed immovables. Naturally, they have the right to tax on those. And naturally, all interchangables, the incorporeal, that is assigned to the place of domicile. But it does not work in principle. Because the yield on those incorporeals take patents, royalties, they are taxed at the source.

I would like to put on record for your consideration the four methods that have developed in relation to this taxation at the source. First, the country of domicile, of residence, allows to its residents the whole of the tax paid abroad, no matter what the rate is. They simply say, the rate that is paid abroad. And the second is the converse of that, the country of origin, where the money arises, the country of origin exempts non-residents from the taxes imposed on income with the source therein. That is, if interest or income is arising here and going abroad we exempt it entirely. That is exemption at the source. And the third is the relief as allocated between the two countries. That is the rule with Great Britain. They allocate up to 50 per cent of their tax. We allow up to the full amount of our tax. So Great Britain really falls into the third. And then the fourth method, that of

appointing particular classes of income to be taxed only in one way or the other according to how it is assigned. That is, they might assign interest to be taxed by the country of origin and they might say, patents, we hold the initial patent right and we're going to tax at the place of residence everything relating to the patent yield, royalties. That is what I am calling the assignment of certain incomes to the respective jurisdictions. Now, these are the four methods, but whatever method is to be adopted this is to be noted in whole or in part, that the tax which is paid at the source is just that much less than the taxpayer pays to his country of domicile or residence. Therefore, it is simply the country of origin lifting the tax from the foreign exchequer and putting it in its own exchequer. Of course, the question is: How much can it lift? And so long as we in this country lift a goodly portion, and so long as our provinces lift something more in their income tax measures, just so long as we have got the dual situation, that which we lift does not hurt the taxpayer abroad because he gets it as a deduction from the tax which he would otherwise pay there. But, the provinces' tax is only an added burden to the taxpayer in that he gets no relief in the foreign country. There is no reciprocal arrangement and it is difficult to recognize minor jurisdiction and, naturally, you are chasing capital out of the country.

COMMISSIONER ANGUS: For the Dominion to collect the income tax for the provinces as it does for Ontario —

MR. ELLIOTT: We collect for Ontario, Manitoba and Prince Edward Island.

COMMISSIONER ANGUS: Does it make any difference to recognition abroad?

MR. ELLIOTT: Not at all, sir. But at first, if you find it necessary to do something to double taxation,

when all those jurisdictions put on taxes, when those provinces are put in relief of double taxation in rebate to the provinces, -- at least Manitoba is --

COMMISSIONER ANGUS: If, in fact, it were a Dominion tax collection and just refunded to the province, it would possibly qualify for exemption abroad.

MR. ELLIOTT: That is very good.

COMMISSIONER ANGUS: It is a fact that the form of taxation might make a substantial difference to the foreign investor.

MR. ELLIOTT: That is a very good point. That is what I was trying to bring out, that we have an instrument which we can wield and use both internationally and internally. I have clearly made my point with you, Mr. Angus.

COMMISSIONER ANGUS: Would what you have said with respect to income tax apply also to succession duties?

MR. ELLIOTT: Not nearly with the same force.

COMMISSIONER ANGUS: There would not be a similar convenience in collecting those nationally?

MR. ELLIOTT: To be very frank with the commission, I am not anxious to get into inheritance tax discussions because, I do not mind saying I have observed comments in the paper and I want to keep clear out of it. If you want to have a discussion in my drawing room, I will be glad to invite you to my house for tea and like the English we will have a nice chat on it.

I have pointed out to the Chairman in particular, he being a man very learned in the law, and Chief Justice of our great province of Ontario, he would be interested to turn over in his mind the extent to which the Committee of Nations which has developed in the commercial realm and in associated realms is going to break down in mutual assistance in revenue matters, which up to this

period is axiomatic to me and, therefore to you, that one country never enforces the revenue law of another or one government give any aid directly or indirectly to those laws which start in that country, I suggest to you also that is going to break down, it has not broken down yet, but it is going to break down, and knowing it is going to break down it has an influence on the kind of amendments we should make to our constitution. And it is a new thing and worthy of consideration, as Professor Angus has indicated.

Now, I think, unless the commission has any further questions, that is substantially what I want to bring before it.

THE CHAIRMAN: I think you have set out very clearly, Mr. Elliott, the points in relation to the international aspect and I think we have caught the drift of your argument or statement of facts all right.

MR. ELLIOTT: Thank you, Mr. Chairman.

THE CHAIRMAN: And, Mr. Elliott, we appreciate the assistance you are giving the experts of the commission. You stated the other day you would be glad to assist in any further respect.

MR. ELLIOTT: Very much so.

THE CHAIRMAN: We had a conference with our experts on Saturday and we are pressing them to complete their work at the earliest practical date, and if any request comes in for information ---

MR. ELLIOTT: It will have my first attention.

THE CHAIRMAN: You will give it your best attention.

MR. ELLIOTT: Not only the best, but the first.

THE CHAIRMAN: Thank you.

THE CHAIRMAN: The next department from which we will here will be that of the Department of Pensions and National Health. Dr. Wodehouse is here to relate to us the facts concerning that department, and he is Deputy Minister of that branch.

DR. R. E. WODEHOUSE, Deputy Minister, Department of Pensions and National Health was called.

BY MR. STEWART:

Q. Dr. Wodehouse, you are the Deputy Minister? A. Yes.

Q. That is, deputy minister of the Department of Pensions and National Health? A. Yes.

Q. Does National Health cover the whole department?

A. The whole department.

Q. The division between pensions and national health is below you? A. Yes.

Q. Would it be more convenient if you read over the memorandum?

THE CHAIRMAN: I think perhaps, he might make a preliminary statement first indicating generally the divisions into which the activities of this department fall as between the federal and provincial authorities. In this way we will have the matter clearly in mind before we go into the details of the evidence.

DR. WODEHOUSE: Well, my Lord, the minister had correspondence asking us to prepare a Brief covering the whole mechanism of the department, insofar as health was concerned. This Brief was to be deposited with your secretary independent of our appearance before you. Then, Minister Dunning, asked us for an additional statement in regard to the overlapping which might occur, and that is the statement which you have before you. On Saturday night, your

secretary asked me to prepare a synopsis of the statement which you have before you and I have done this. It is contained on one page, and I have divided the functions into four groups. I think this grouping covers everything with which we have to deal in the nature of Public Health, wherever it is a federal responsibility. There is the grouping which is a federal responsibility of international character, the federal responsibility for a national purpose, and the federal responsibility which is purely national in scope. Group four is under the heading, "Federal Assistance to other Federal Departments and to the Provinces and Voluntary Health Associations".

Now, the federal responsibilities of an international character; I do not know whether you wish me to read all of those.

THE CHAIRMAN: I think you might indicate those, and tell us some important facts concerning them.

DR. WODEHOUSE: First we have an agreement with the United States whereby we certify as to the harvesting fields for all shellfish exported to the United States. They, in turn, certify as to the shellfish coming into our country. This means so far as the Health hazards are concerned, the freedom from disease. The second point is the licensing of biological laboratories who intend to export their products. We also have the right to inspect for ourselves the laboratories of other countries, but we usually accept the certificate of the Health Department of the country in which the laboratory is situated. Next is the sanitation of international waters. You all probably know that this is a responsibility which we have to carry out at the request of the International Waterways Commission. The next item is the exchange of information and police assis-

tance in following up narcotic drug traffickers.

THE CHAIRMAN: With respect to that branch of your departmental work, is there a good deal to be done?

DR. WODEHOUSE: Oh yes. Probably the most serious case which we have had since I have been Deputy Minister, resulted in two deaths. Perhaps you will remember the incident which occurred in Montreal where one witness was killed and the man who was prosecuted committed suicide immediately after he was found guilty. I believe that several million dollars was involved in that case.

THE CHAIRMAN: That is a very important branch of your work?

DR. WODEHOUSE: Very important, internationally. We could not handle it without the very best of international relationship between the various countries, which I think exists. Under the heading of "supervision of water supplies for drinking purposes," we supervise the water used for drinking purposes on international carriers, steamships as well as trains. The same thing is done for us in the United States. The next item is the exchange of information on quarantine diseases prevalence. The international office in Paris is a clearing-house for information concerning the five quarantinable diseases. Item (g) "The League of Nations Opium and Narcotic Drugs, Biological Drug Standards". There is a clearing-house for information concerning these different things maintained in Geneva which is extremely helpfull. The next item is "Medical Care of Sick and Distressed Mariners". We hospitalize those in our country no matter what country they may be from. The last item under this heading is the "Deratization of International Shipping". For instance, a ship may go into Great

Britain from Indian and be fumigated for rats. This ship will have a certificate given to it and then some months later will come to Canada. It will then be necessary for us to do the de-ratization of that ship as we have an agreement that it must be done within six months.

COMMISSIONER MACKAY: What about the medical care for sick and distressed mariners, do you maintain your own hospitals?

DR. WODEHOUSE: We use city or provincial or other hospitals which may be available. Of course, where we have hospitals of our own for the care of pensioners, we sometimes utilize the beds for this purpose.

In the next grouping there is first, "The Inspection of Food and Drugs". Last year we examined twenty thousand specimens in our laboratory which we suspected of being wrong. However, we do not examine everything. Fifty per cent of these specimens were collected in our customs warehouses. "The Proprietary and Patent Medicine Protection"--these are all inspected in the customs houses. This department aids in the enforcement of those Acts. They know all the requirements of the law and even if things come in by mail, they are referred by them to us. In the case of the larger ports such as Halifax, St. John, Montreal, and Vancouver, our inspectors visit the warehouses every morning because of the large quantities of foods being imported through these ports which need proper supervision. "Licensing Import Opium and Narcotic Drugs." "Immigration, Medical Inspection." We have five doctors overseas and we also employ the panel doctors in Great Britain.

THE CHAIRMAN: Are all immigrants examined before they leave?

DR. WODEHOUSE: Yes, in all the countries.

THE CHAIRMAN: In all the countries of Europe?

DR. WODEHOUSE: Yes.

THE CHAIRMAN: At the time there were more people coming into this country, did you have many occasions where people were passed before leaving a country but had to be rejected upon arrival here?

DR. WODEHOUSE: That occasionally does occur, but not very often. We find the panel examination working out very satisfactorily now.

COMMISSIONER MACLAY: That is a charge on your department rather than on the Department of Immigration?

DR. WODEHOUSE: Yes, that is carried in our estimates.

COMMISSIONER MACLAY: They have no medical supervision of their own?

DR. WODEHOUSE: No sir, we provide that and that also applies to some other branches.

"Federal responsibilities purely national in scope." The first item is the foods and drug Act, the enforcement of that Act. "Proprietary and Patent Medicine Licensing and Supervision". "Opium and Narcotic Drug Act, Licensing of Manufacturers and Auditing of Drug stores, Hospitals, Control of Trafficking." "Public Works Health Act." "National Council of Nutrition."

THE CHAIRMAN: What is that?

DR. WODEHOUSE: It is a body which we have just set up. This is partly under the Federal Council for Health. It is made up of representatives of that board, five in number. There are four or five what we might call university or technical experts who are retained in an advisory capacity.

THE CHAIRMAN: When you speak of the National Council of Health, is it still composed of the Ministers of Health for the different provinces?

DR. WODEHOUSE: Just as you set it up. "The Medical Institute of Research"---this has not yet started. "Hospitalization of Labour."

THE CHAIRMAN: What is being contemplated under that last item, if you are at liberty to tell us about it?

DR. WODEHOUSE: Research?

THE CHAIRMAN: Yes.

DR. WODEHOUSE: It is hoped that we will be able to organize a medical research setup in the National Research Council and probably conduct it for five years or so under that head.

THE CHAIRMAN: Set up under the Research Council?

DR. WODEHOUSE: Yes, until such time as it might be warrantable to have a medical research organization with a governing body drawn from the universities and those interested in medical research more directly.

THE CHAIRMAN: Is there any reason why the national research council should not embrace within its activities, research into problems concerning public health and preventative medicine, in addition to the activities which it is now carrying on?

DR. WODEHOUSE: I do not think it felt that there is anything in its constitution or legislation covering its set-up which would prohibit such an action. It has been the policy, however, up until the present time to refrain from anything purely medical, although, they did go into the question of tuberculosis insofar as the health of animals was concerned.

"Federal Assistance to other Federal Departments and to the Provinces and Voluntary Health Associations."

"Grants in aid to the Voluntary Health Agencies."

BY MR. STEWART:

Q. Those are the agencies which are set out on page two of your memorandum? A. Yes.

DR. WODEHOUSE: "The Loan of Personnel and Equipment to the Provinces at their request and for cooperation with them." "This applies to the division of child and maternal care, industrial hygiene, epidemiology, sanitary engineering, laboratory workers, hospital architecture, and psychiatrists' services." "Assistance to other Medical Departments"--- that is medical supervision of sick leave for the Civil Service Commission. "Medical and Hospital Supplies." We also purchase medical supplies for the Department of Indian Affairs, which is annually about \$50,000.

THE CHAIRMAN: You do not give medical services to those on the Indian Reserves?

DR. WODEHOUSE: No sir, that is another department. Excepting for the Department of Immigration, the medical services in any other department are handled by that department.

THE CHAIRMAN: Each department handles its own?

DR. WODEHOUSE: Yes.

THE CHAIRMAN: I think it was in the Brief presented by the Canadian Medical Association, that it was suggested that your department should be responsible, at least it would tend towards efficiency if your department were responsible for the medical services in other departments where medical services are required.

DR. WODEHOUSE: I would like to ask the question, in whose Brief was that contained?

MR. STEWART: The Canadian Medical Council, and the Anti-Tuberculosis Association, I think.

DR. WODEHOUSE: There has been interdepartmental dis-

cussion concerning this question. It has not been brought about through any suggestion on our part for fear we would be suspected of being covetous. I really would, rather not discuss it.

THE CHAIRMAN: It is a matter of policy and upon a matter of policy--while we would be glad to have any help which you might care to give us--we do not press you to give information upon such matters. What is the Council doing at the present time, what are its present functions?

DR. WODEHOUSE: You mean the Federal Council of Health composed of the nine Deputy Ministers and five other people? It meets every six months and now, at alternate meetings, the ministers of the various provinces come to the meeting at the same time as the Deputy ministers to meet with our minister. We invariably have legislation concerning enforcement in the different provinces to discuss. We then, discuss it clause by clause in an attempt to make it uniform in all provinces. We have been extremely successful for a number of years. When the provincial Health Officers gather around one table they almost invariably arrive at a satisfactory arrangement. Their governments usually adopt their recommendations and so the changing needs of health are taken care of in this way.

MR. STEWART:

Q. In the main Brief, Dr. Wodehouse, which you have presented, I notice there is a department of publicity mentioned.
A. It is being organized. We have found difficulty in getting an appointee. We have the funds, but we have not actually designated a man as yet.

Q. Now, is there any overlapping, in your opinion, between the function of such a department and the work carried on by the provinces? A. Well, I should think that, in

a matter of this kind, if there was any duplication, it would be for the general good. The more repeatedly we can impress upon people that certain things are for their own good, the better the result will be.

Q. Is there any publicity department connected with the provincial activities? A. I do not know of any, but they have all been issuing information in pamphlet form and so have we.

Q. And radio work? A. Yes.

Q. It would not be the intention of the publicity division of your department to overlap, but rather to coordinate, I suppose? A. Well, to coordinate--with our meetings every six months, our views are almost one. We know where we are going and help one another in getting there. With only a six months' lapse, nothing really can go wrong. The provinces requested us to set up this division of publicity.

Q. In all other places where any serious overlapping can come about are those indicated on pages three and four of your Brief, is that right? A. Yes.

Q. They are largely concerned with child and maternal hygiene and industrial hygiene? A. Yes, but if you will recall, we never attempt to go into the provinces with these services unless requested to do so. We always have the cooperation of the provinces and so we really never get into any difficulty in the matter.

THE CHAIRMAN: Mr. Stewart, excuse me, for a moment. I would like to ask Dr. Wodehouse concerning his enumerations at the bottom of page 2. These are things which the provincial departments of health carry on, the collection of vital statistics. Is that done by the provinces exclusively, or does the Dominion Department of Statistics collect also? I would like to know if there is any dupli-

cation there.

DR. WODEHOUSE: I think, if you would be good enough to ask Dr. Coats, he would be able to give you a very clear statement in that regard. I believe, the provinces are the original collectors of vital statistics, but they send them to Dr. Coats.

THE CHAIRMAN: "The control of communicable diseases"--- this is within provincial jurisdiction, and your department does not exercise any control in that respect.

DR. WODEHOUSE: No sir, if you will just remember that all the detailed work concerning the population of Canada is a provincial matter and all the detailed work concerning the people coming through our borders is a Dominion responsibility, I think you will always have a very clear division of responsibility in your mind.

THE CHAIRMAN: "Cancer control", I think Dr. Young told us that this Memorial Cancer Research Fund, that the income from that is placed at the disposal of the Canadian Medical Association.

DR. WODEHOUSE: Yes.

THE CHAIRMAN: You have nothing to do with that?

DR. WODEHOUSE: I am Honorary Secretary of the Trustee Board.

THE CHAIRMAN: Then you have a good deal to do with it?

DR. WODEHOUSE: I send them a cheque every six months.

THE CHAIRMAN: Does your department make any scientific study in industrial hygiene, or is any scientific study being made by the Research Council?

DR. WODEHOUSE: Yes, by the National Research Council. One of their very best authorities is in charge of the matter, a man named Cunningham, I believe. We are just

setting up a division of industrial hygiene at the request of those provinces who really do not feel that they should spend the money to maintain such a feature. They would like to have the benefit of consultant services, upon request, from the Dominion government. We do not anticipate that Ontario needs it at all, but some of the other provinces have asked for it.

THE CHAIRMAN: Would there be any duplication if you set up one branch for certain provinces and Ontario and Quebec had their own. Could it not be as efficiently done by one branch or department?

DR. WODEHOUSE: I think, in cases where the provinces have set up such services that they know the needs of their people intimately and would do the work as well or better than anyone we could send. However, for those provinces which do not feel they want to spend the necessary money for the maintenance of such an expert, I think we could render them such a service, upon their request, to investigate the various industries which they felt needed investigation.

COMMISSIONER MacKAY: The cost of such a system would not be any greater?

DR. WODEHOUSE: It would be much less.

BY MR. STEWART

Q. How does the division of child and maternal hygiene cooperate with the provincial departments? A. We provide literature; some of it we print and put out in their name. We provide lecturers and speakers for each province at its request. Our head of that division or his assistant sociologist would go to their meetings, not on his own initiative, but simply to discuss problems of mutual interest. We also assist them in making studies of any

interest. We also assist them in making joint studies of any particular problem in which we are interested.

Q. The study of infant mortality? A. Yes, and maternal deaths, abortion deaths and such matters.

Q. Your division of industrial hygiene has just recently been created? A. It has just recently been set up, sir. The activities of this organization have not, as yet, been clearly defined.

Q. They will work in conjunction with the National Research Council? A. They do not know exactly. They will probably exchange information concerning the advancement made in the utilization of things to reduce the hazards of labour.

Q. Food and drugs inspection involves a certain cooperation with the provinces to see that the fields do not overlap, is that so? A. Yes.

Q. Take, for instance, milk? A. That is in the same position as the Canned Meat and Canned Foods Act.

Q. But in the field of fresh milk? A. That is designated by an agreement, to the provinces. Where a province has requested it, we have given it to them.

Q. Take, for instance, water, does your department administer the rules concerning the water supply of the provinces and municipalities? A. We do it for international carriers, such as steamships and trains.

Q. Your division of sanitary engineering deals largely with international questions, such as transportation?

A. Yes, and a very large part of it deals with the supervision of these shellfish.

Q. That is, also done in cooperation or by agreement with the United States, is it not? A. It is done at their request, otherwise they would not accept oysters from us.

We do the same; we would not accept oysters from the United States unless they were certified.

THE CHAIRMAN: You think, then, that we are quite safe in eating oysters?

DR. WODEHOUSE: We are safer in eating imported oysters than we are in eating domestic oysters.

THE CHAIRMAN: You do not watch our own?

DR. WODEHOUSE: We watch the importations much more closely. We cannot watch our own, we have no authority. Of course, we could examine them on the market as they did in England. However, they found in England that the oyster would not wait to be examined. It takes twenty-four hours in an incubator to find out whether you have any typhoid or colon bacillus. You cannot do it by eyesight.

THE CHAIRMAN: Has this matter been discussed by your Federal Council of Health?

DR. WODEHOUSE: Yes, it is well known to the Federal Council of Health, and it is known to the Dominion Fisheries Department. It seems hard to decide just in whose hands the matter lies and just what is going to be done about it. We have been doing our part efficiently, I think.

THE CHAIRMAN: Certainly, it should be possible through the cooperation which has been established between the federal department and the provincial departments of health to reach some understanding about the matter?

DR. WODEHOUSE: I don't know whether the right authorities have ever had the matter brought to their attention. What brought it to the attention of the United States authorities was a very severe outbreak in New York City a year ago. The States did not want federal intervention in this matter. This outbreak was caused by oysters which were literally bred in the sewers. They

were nice, plump looking oysters and for this reason made their way into the very best restaurants. It is probably for this reason also that the health inspectors did not check up on them. There was an enormous death toll.

BY MR. STEWART

Q. The sanitary engineering division does not enter into the provincial field? A. Only upon request. We do, however, where there is a water supply in a city which is going to be used to refuel international carriers. We do not accept the municipalities certification of the water in such places.

Q. Your Department of Epidemiology is a recently organized division? A. Yes.

Q. Would you just indicate what its functions are to be? A. We have a statistician, or rather are having one sent to us by Dr. Coats. We expect to get reports from all the provinces and the larger cities on a great many diseases. We expect to have set up what the normal expectancy of these diseases would be at the different times of the year. As soon as the statistician observed a rising curve-- if the provinces did not quickly appreciate the fact, it would be the privilege of the statistician to correspond with them and bring the matter to their attention. He would go to the province concerned and help it in any actions which it might take to curb the outbreak.

Q. Have any of the provinces similar officials or are there similar functions being performed by any division of Epidemiology. A. Yes.

Q. By which provinces? A. Ontario, Quebec, and Manitoba, to my knowledge. Alberta and British Columbia might have.

Q. Are there any overlapping services whatever? A. None whatever. The best answer to that question would be that they asked us to set up these four new divisions. They

were established upon the request of the provinces.

MR. STEWART: I should think it would be well to mark Dr. Wodehouse's memorandum as Exhibit Number 137, and to mark his synopsis as 137 A.

THE CHAIRMAN: Yes.

EXHIBIT NO. 137:	Memorandum submitted on the Activities of Dominion and Provincial Departments of Health in respect of overlapping.
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EXHIBIT NO. 137 A:	Synopsis of the Health Branch of the Department of Pensions and National Health.
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THE CHAIRMAN: It was suggested in one of the Briefs when we were in one of the western provinces, I do not recall which one, that it would be desirable if the scientific staff of your department was increased so that the provinces which could not afford to establish such a staff might have the benefit of consulting with the experts of your Department. Has that question come up before your Federal Council of Health at all?

DR. WODEHOUSE: I think evidence is given of that fact, in that we have been requested to establish these four divisions. I think that is, as I picture it, the proper function of our department, not to interfere or do detailed work, but to provide consultants. Of course, I do not mean by that, that we presume to tell them what to do, we only seek to help them.

THE CHAIRMAN: Thank you very much, Dr. Wodehouse, for the valuable assistance which you have given us.

MR. STEWART: The next is Dr. Coats, Head of the Dominion Bureau of Statistics.

DR. R. H. COATS, Dominion Statistician, was called:

BY MR. STEFART

- Q. Dr. Coats, you are Dominion Statistician? A. Yes.
- Q. And as such, are head of the Dominion Bureau of Statistics? A. Yes.
- Q. Would you just outline to the Commission the functions carried on by your Bureau? A. They are very wide, of course, Mr. Chairman. Our functions are prescribed under the Act respecting the Dominion Bureau of Statistics which says:

"Shall be to collect, extract, compile and publish statistical information relative to the commercial, industrial, social, economic and general activities and conditions of the people, to collaborate with all other departments of the government in the compilation and publication of statistical records of administration according to the regulation, and to take the census of the Dominion as hereinafter provided."

I think that is in the Brief which has been submitted to you.

THE CHAIRMAN: You might, just for convenience sake, have a copy of the Act marked as an exhibit.

EXHIBIT NO. 158: Copy of an Act respecting
Dominion Bureau of
Statistics.

DR. COATS: The Act sets out the duties of the Bureau. Now, the British North America Act proscribes statistics as falling within Dominion jurisdiction as opposed to provincial jurisdiction. The interpretation of that has always been that it does not preclude statistical information being gathered by the provinces with regard to those subjects which, under Section 95, are allocated to the provinces. It does lay

down the duty of the Dominion government as to insuring that there is complete or as nearly complete comparative statistical information as it can afford of these various economic and social conditions.

It was only in 1918 that the Dominion Bureau of Statistics was set up as a central statistical organization. Previous to this, statistics of various social activities were gathered in a great many departments which had special interest in respect of those statistics. There was a great amount of overlapping as between Dominion and provincial authorities, and there was a good deal of working at cross purposes as between Dominion authorities, because statistics were considered purely as a by-product of administrative services. There was, as you no doubt remember, a Commission formed to inquire into the general statistical situation in 1912. It advocated reforms in form of organization, and after a good deal of consideration, the Bureau was set up in 1918. To organize the Bureau and reduce to some sort of co-ordination these multifarious activities and interests was a tremendous task.

In the Act, the further duty is laid upon the Bureau of co-operating with all other departments of the government in the compilation and publication of statistical records. The first section of the Act relegates all purely statistical work to the Bureau, and secondly, where statistics naturally arise out of the functioning of a department, it is the duty of the Bureau to co-ordinate these as a part of the general scheme. The regulation under the Act is a very simple and common sense one. It gives the Dominion statistician the right to confer with the departments with regard to any activities of theirs which

might produce statistics. It is the duty of the Bureau to see that such statistics are available as part of the general body of statistics. This has been worked out in a series of orders in council as between the Bureau and the several Dominion departments. These prescribe exactly how any statistics of particular interest to the Departments or which are a result of departmental activity shall be treated. They are to serve not only the administrative interests of the department but to form part of the fund of statistical information for the government. A very good example of this is the collection of trade statistical data through the customs department. The customs department must examine every article whether raw material or merchandise which crosses the border; ipso facto it provides straight trade statistics. The customs department is naturally mainly interested in those articles upon which customs duties may be collected. They must be very certain of everything concerning those articles, but after all there only number 700 or 800. The public interest requires information on a wide variety of imports which may not have customs duties levied upon them.

THE CHAIRMAN: What department directly collects the statistics concerning exports.

DR. COATS: The department of customs. It would not be common sense to set up a purely statistical staff for a purpose which the customs officers at the different ports can meet.

These statistics must be brought into co-ordination with production and a great many other fields.

The customs department, therefore, is required to report such matters as they are generally competent to report. The work is under the control of the Dominion statistician insofar as the statistical information itself is concerned. This is only one instance of inter-Departmental co-operation.

Now, with regard to the provinces: Separate machinery altogether was set up under separate provisions made in the Act. It was recognized that when, for example, control of mining was vested in the provinces, the statistical responsibility remained under Dominion authority. This did not mean that the provincial authorities could not collect their own statistics with regard to mining. However, if you leave nine provincial authorities to set up statistical data as they desire you will get a wide variety of methods and will not be able to make interprovincial comparisons, or arrive at Dominion totals. Moreover, if you leave a Mines department to collect its own statistics, it is certain to collect only statistics which primarily concern mining; for example, it would not bother much about labour statistics or other economic aspects of mining. If they did they might set up definitions which would be at variance with those of other departments. There is provision, therefore, in the Act, which looks forward in a common sense way to an arrangement being made between the Dominion Bureau of Statistics as the Federal statistical authority and these various provincial authorities. The very nature of

their activities produce statistics which require partnership in the collection and compilation of this information.

THE CHAIRMAN: Dr. Coats, since there is co-operation between the Dominion and the provinces in connection with statistics, is there any further co-operation which would be desirable in the collection of statistical data?

DR. COATS: I think there is, and I have made a suggestion in the Brief which has been left with the Commission. These arrangements with the provinces are difficult to arrive at. They depend upon the thoroughness with which you have explored the possibilities and the extent to which they may be beneficial.

(Page 3840 follows)

For instance, you mentioned the subject of vital statistics; I can take two minutes to tell you just what we do in that particular field. Fifteen years ago the subject of vital statistics, which has to do with the registration of births and deaths was handled under nine different Acts in the nine different provinces: there were nine different schedules as to the data that should be obtained regarding births and deaths. They were compiled in nine different ways and published in nine different forms. You could not make a Dominion total; and they could not be related to the other schemes of statistics in the field of population. Births and deaths are the natural increase and decrease of the population. Another part is migration, which you might term the artificial increase or decrease of population, while back of the whole is the census which takes a static view of the population situation. Now, those three sections of statistics although they go under different names are really the same thing in differing guise; just exactly as the day-book and the journal and the stock sheet of a grocer must be based on similar terminologies and interpretations and definitions and so on. We succeeded in getting the provinces to agree on a uniform vital statistical scheme and we did it at a four or five day conference at which the Bureau suggested a model Act. We put it forward in a scientific spirit as the sort of thing we had built up from observation of the nine provincial systems and the systems of other countries.

After four

or five days deliberation in conference with the registrars-general we agreed on a model Act for Canada which was the product not of the Dominion Bureau of Statistics but of the experience of the provinces themselves. We arrived at a very good working Act. Provincial objections were removed when discussion was brought into an atmosphere of give and take and scientific endeavour.

As soon as the provinces had agreed on this Act, and on the schedules appertaining to the Act, as well as on the schéme of tabulation which was essential, we said to the provinces something like this: "If you will 'scrap' your Acts and pass the model Act, not necessarily verbatim but adhering to the principles of the model Act, the Dominion will supply the provinces with the forms for making registrations, ~ the forms on which a birth or death shall be entered." They are issued in the joint names of the Bureau and of the provincial registrar-general. Finally we said if you will send us copies of registrations we will make the compilation here.

THE CHAIRMAN: I don't think, Dr. Coats, it is necessary to go into the details of it. You have worked out a system with the provinces on a satisfactory basis for compiling uniform and vital statistics.

DR. COATS: Yes, that is correct, and we have done it in a great many other fields on a principle that, I think, is eminently common sense as well as economical and which has greatly enlarged the content of statistics.

THE CHAIRMAN: Dr. Coats, we want to give you full time to present the points of your department. I have not seen the Brief and I don't know whether there is one here, and I cannot form any estimate whether you could finish in a short time or whether we will have a sitting this afternoon as we originally intended. Have you an estimate of how long it would take to cover the points?

DR. COATS: Well, of course I could take a long, time on the subject; it is you, Mr. Chairman, who must set the time limit. I think I could finish in five minutes.

THE CHAIRMAN: Well, fifteen minutes. There may be some questions Mr. Stewart may have for you, and we will finish the whole thing in fifteen or twenty minutes. We would rather sit now than have a further session this afternoon.

DR. COATS: I think I can. The needs in the Bureau are two-fold; there are certain fields we have not covered yet that are of Dominion and provincial interest. One is transportation. Of course statistical work costs money and there is always the question of increased expenditure. Briefly the transportation situation is that while we have fairly good railway statistics, - not quite good enough - we have very imperfect statistics of water borne traffic and we have no statistics at all of the revolution that has occurred in

transportation due to the invention of internal combustion engines and the motor bus and motor truck. I believe that complete transportation statistics would do much towards clarifying transportation issues, and it would also enable certain phases of interprovincial relations to be cleared up - namely, interprovincial trade and economical relations in general.

Now, it is out of the question to provide statistics of internal trade directly; it would cost a fabulous sum. We spend a quarter of a million dollars on our import and export statistics, and it would cost nearly the same for statistics of exchanges inside the country, - at least I am inclined to think that it would. But you could get a certain by-product from complete transportation statistics that would throw a lot of light on it. For example, we already get from the railroads monthly statements for seventy or eighty important staples of what is loaded on cars and loaded off cars in each province. If you know that, say, 10,000 cattle are loaded in cars in Manitoba and 6,000 loaded off cars then you know that there has been an export of 4,000 cattle from that province. If you have the same for the other provinces then, with exports and imports you can get a pretty good idea of what is going on in the cattle trade. I think this could be carried along to a considerable distance and that it might throw a lot of light on interprovincial economical relations.

Your own Commission has encountered the situation that prevails in the statistics of public finance. You have had to set to work to make that good; ditto in the statistics of private finance, such as concern national income and wealth.

Our statistics are very imperfect on a lot of financial aspects, that I think could be provided for at not a large additional expense, but that again is a question of internal policy in the Bureau of Statistics.

The second aspect is one on which I wish to put emphasis, Mr. Chairman. We have multifarious and important relations with each province, but provision for holding conferences and for getting together is lacking. Duties of that kind are apt to be neglected even when one is seized of their importance. I think it would strengthen the Statistic Act, - and my Minister has endorsed the suggestion which has been passed on to you, - if there were created a Statistical Council which would be required to meet once a year. That council would be limited to ten members. It would be a council for the discussion at least once a year, oftener if necessary but once a year at least, of the more pressing statistical problems at that moment requiring the getting together of the Dominion and provincial governments. We can do that of course ad hoc now, but if there were a class in the Act providing for this getting together, it would ensure action. There is, of course, a provision which gives us access to any provincial government record or any municipal record. The point is that we need some body to provide systematically for Dominion-provincial discussion. The provinces are organizing statistically more and more, they have a central statistical Bureau in Quebec and they are setting one up in British

Columbia; Nova Scotia has discussed it, and I hear that Ontario is likely to move in that direction. That of course simplifies the problem for us.

THE CHAIRMAN: Do you think it necessary to have these provincial departments or branches dealing with statistics or could the federal department of statistics cover the whole ground?

DR. COATS: It would cost us much more. A provision in the Act allows me as Dominion Statistician to delegate authority to a provincial authority ...

THE CHAIRMAN: But I just want to get your view, Dr. Coats, on that point; whether you think that the provision functions more economically than it would be to have one department seeking to cover the whole ground?

DR. COATS: I think so. Consider the annual and monthly returns from dairy factories. Now, the Dairy Commissioner of British Columbia can best collect those data. He has the lists up to date; he knows the men, and he can deal with them more satisfactorily than we can. At the same time we can help by compiling the data and by furnishing general direction of policies. Local statisticians are apt to get into a groove.

I think if we had a provision in the Act in the terms which I have suggested in the memorandum which has been handed to you, I believe it would keep our co-operative arrangements up-to-date. Referring again to your query, Mr. Chairman, I think devolution in these matters is a very good thing. So long as there is not going to be an entirely central governing body, I don't think you can divorce statistics from administration.

If I may conclude on a generalization, I think it is sometimes overlooked how important the statistical provision is. The federal government under the British North America Act has no powers in certain fields but it has the right to know all about these fields. That alone is a tremendous power. A great many quarrels are cleared up the moment the facts are clearly defined. Then secondly in late years we are using statistics as a regulative force in fields that the provinces hold under jurisdiction. For example, a certain industry is purchasing their raw materials and selling their product largely in the Canadian market. An industry of that kind is sometimes accused, rightly or wrongly, on the one hand of keeping down the price at which it buys its raw materials, and on the other of increasing their prices to the trade. Sometimes, so the accusation runs, they tell the trade that they are short of this particular line of goods and we must charge a high price, at the time when they are telling the producers they are "full up" and can buy only at a low price. A continuous

record of stocks and production processes from month to month or quarter to quarter, with price indexes, clears this up and there is no possibility of anyone taking an undue advantage of anyone else. That is becoming an increasing function of statistics in the United States. Whereas a few years ago there was a general reluctance on the part of business men to give records of their private transactions, it is astonishing the extent to which that sentiment has changed in the last few years. I had on my desk this morning a request from a large body of manufacturers to undertake something of that very nature; if you had suggested that even five years ago they would have deprecitated it.

BY MR. STEWART:

Q. I just have three questions, Dr. Coats. It was suggested by the Canadian Association for Adult Education that your educational division might be expanded in the following particulars; to enable you to include investigation and research in Canadian educational problems, and to conduct as well services, experiments and research in the social sciences, and adding to that the publication of pamphlets; conferences to be called by you directors and the use of radio. That by these activities your department could be of even greater service to education in general. The question I wish to ask you is whether your department is so constituted as to enable it to make that expansion?

A. Oh yes, indeed. Education

is one of many instances that can be given where there is the possibility of doing valuable work. It is a question of money and staff. You mentioned conferences: Education is a subject on which we ought to have a conference. We had one in 1920, and the time is coming when we should have another. Education is a good example of the sort of thing the Bureau of Statistics can do in a field that is definitely and emphatically relegated to provincial jurisdiction. Every few years the establishment of a federal Bureau of Education is suggested on the model of the United States. Now 80 per cent of the work of the Bureau of Education in the United States is statistical investigation - the measuring of current trends and movements and activities in education. This we are doing for Canada in our Education branch of the Bureau of Statistics - and the remaining 20 per cent has largely to do with pedagogical methods and so forth.

COMMISSIONER DAFOE: The Teachers Federation, I think, in the presentation here and in Saskatchewan both suggested an enlargement of the educational activities of the Bureau of Statistics.

DR. COATS: Yes.

THE CHAIRMAN: Dr. Coats' point is the department

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is qualified by its organization to undertake it but he thinks it would be an additional expenditure.

DR. COATS: Yes. I think a few thousand dollars spent that way would have important results.

BY MR. STEWART:

Q. The second question is this: Is your Bureau in a position to give the necessary statistics for the ascertaining of national income or national wealth by provinces?

A. Well, we have statistics of national wealth by provinces compiled by the so-called inventory method. It is not a bad figure, but it is not a very good one either. On the subject of income, we have had this subject under advisement for years. You have Professor MacGregor on the job for the Commission - a very important and necessary job it is. I don't see how we can talk finally about taxing until we know what there is to tax. We have a scheme of data which we have put at Professor MacGregor's disposal and he will get a lot of useful information together for you, I am sure.

Q. It requires further preparation of course? A. Yes, and I think you will find when Dr. MacGregor gets through it will need still further work. He will tell you.

Q. Once it is set up your Bureau could undertake the work of keeping it going? A. Quite. We have a plan that requires a little co-operation from Mr. Fraser Elliott. He is agreeable, but we were never pressed for it.

Q. The last point I want to inquire into, is the bulk of the Bureau's work dependent on the requirements of your department, your general department, that is the Trade and

Commerce? A. No. The only figures we do directly for the Trade and Commerce Department are the Trade statistics, - also production which of course the Department of Trade and Commerce uses very extensively. But on a subject like mines we work in close co-operation with the Department of Mines and with the nine provincial Departments of Mines who collect all data and send them to us under arrangement.

Q. What I had in mind was possibly the allocation of your Bureau to the Department of Trade and Commerce, it might attempt to emphasise your work to some extent?

A. I don't think as a matter of fact it has. The Bureau is a central Bureau. It is not a statistical branch of any department, but a statistical branch of the Dominion government as stated in its Act.

MR. STEWART: Those are all the questions I have to ask, I just want to have the memorandum that has not yet

(Page 3851 follows)

been mimeographed, number 139, reserved for it.

THE CHAIRMAN: Thank you very much, Dr. Coats, The Commission now closes its Ottawa sittings for the present.

EXHIBIT NO. 139: Memorandum submitted by Dominion Bureau of Statistics, (to be filed).

(The Commission adjourned its Ottawa sittings at 1.15 p.m., to resume in Halifax, Nova Scotia, at 10.30 a.m., Thursday, February 3rd, 1938.

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